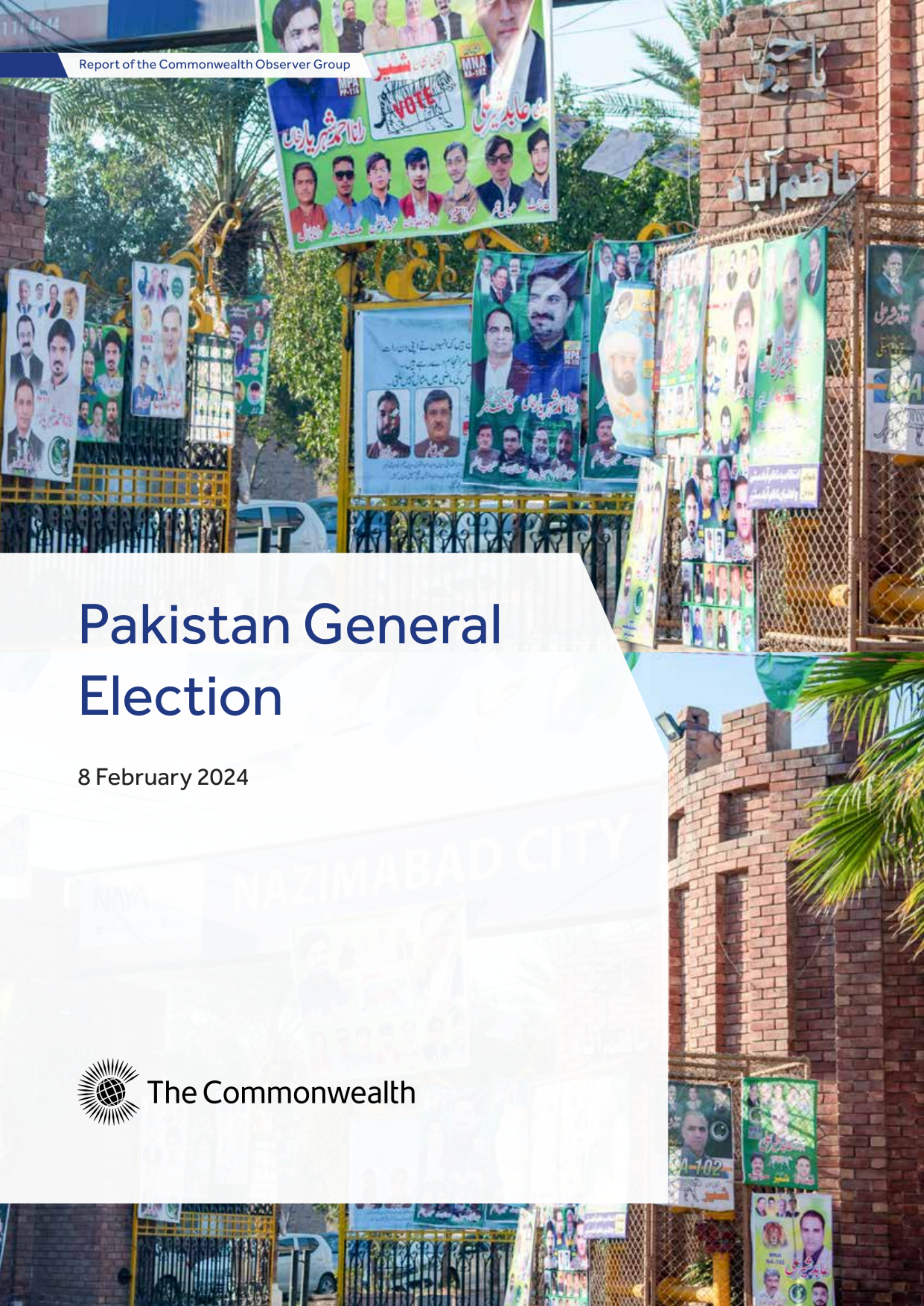

Report of the Commonwealth Observer Group

Pakistan General Election

8 February 2024

The Commonwealth

Pakistan General Election

8 February 2024

The Commonwealth

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Published by the Commonwealth Secretariat.

Contents

Letter of Transmittal vii

Acronyms and Abbreviations xi

Executive Summary xv

Table of 2024 recommendations xxi

1. Introduction 1

- Election observation by the Commonwealth 1
- The 2018 Revised Guidelines 1
- Characteristics of Commonwealth Observer Groups 2
- Commonwealth Observer Group for the 2024 Pakistan general elections 2
- Terms of reference 2
- Activities 3

2. Political Background 4

- Post-independence history 4
- Recent political developments 4
- Political violence, security issues and terrorism 7
- Governance challenges 8
- Political economy 8
- Pakistan and the Commonwealth 8

3. Legal Framework and Election Administration 9

- System of government 9
- International standards, commitments and instruments 10
- Laws and standards regulating elections 10
- Election Commission of Pakistan 11
- The judicial system 17
- Electoral issues and dispute resolution 25
- Voter eligibility and registration 27
- Candidate nomination 29
- Registration of political parties 32

Political party defections 33

Data protection and information security 33

Recruitment and training of the temporary workforce 35

4. Participation and Inclusion 36

Civil society 36

Women 39

Youth 46

Persons with disabilities 52

Transgender community 55

The Ahmadiyya community and religious minorities 57

Prisoner voting 59

5. The Campaign and the Media 61

The Campaign 61

The media 66

6. Voting, Counting and Results Process 83

Polling station staffing 83

Ballot paper procurement 83

Pre-poll activities 83

Polling station selection, layout and secrecy of the ballot 84

Assessment of opening of polls and conduct of voting 84

Polling station 'camps' 86

Participation, inclusion and accessibility 86

Voter turnout 87

Security issues and the role of the police and armed forces 87

Role of party agents 89

Situation rooms 89

Assessment of the closing and counting 90

Digital results transmission and results management 91

Irregularities in the tabulation process 92

Communications strategy of the ECP 97

Results 98

Annex I. Composition and Biographies of the Group 100
Annex II. Arrival Statement 105
Annex III. Deployment Plan 107
Annex IV. Interim Statement 108
Annex V. Recommendations Tracker 113

Letter of Transmittal

Commonwealth Observer Group
Pakistan General Election

8 February 2024

20 November 2024

Dear Secretary-General,

I am pleased to forward to you the final report of the Commonwealth Observer Group ('the Group') you constituted to observe Pakistan's General Election on 8 February 2024. It was my privilege to chair this observer mission, which comprised experts from across the Commonwealth. We were honoured to bear witness to this important milestone in the democratic life of Pakistan. We wish to extend our heartfelt gratitude to the people of Pakistan for the warm welcome shown to our Group throughout our time in the country.

In accordance with our mandate, we assessed these elections against Pakistan's domestic law, regional and international laws and standards to which the country has committed herself, as well as international good practice in the fields of democracy, governance and election administration. In observing the process, our Group considered the broader political, social and historical context in which these elections took place.

Our Group appreciated the incredibly challenging security environment along and within Pakistan's borders, as well as the inherent difficulties in administering an election of 128 million voters on a single day. The ECP, security services and polling staff are to be commended for their efforts in administering an election under such challenging circumstances.

There were a number of positive developments during this election, particularly with regard to participation and inclusion. The gender gap in voter registration was significantly narrowed, there was an increase in youth turnout on election day, and the ECP continued its efforts to build its internal capacity through the expansion of its Gender and Social Inclusion Wing.

We noted with concern a number of factors in the pre-election period that significantly impacted the level playing field, most crucially the non-allocation of the bat symbol to PTI and the registering of PTI candidates as independents. While the reason for this decision had a basis in law, the negative consequences of this decision appeared vastly disproportionate to the offence this decision sought to address.

Other issues of concern included certain decisions of the courts, including those in relation to Imran Khan, who was convicted in three separate cases days before the election. There were also limitations on fundamental political rights, including freedom of association and assembly. These limitations were felt most acutely by PTI and its supporters. We also noted limitations on journalistic freedoms, including in relation to freedom of speech and a culture of impunity for perpetrators of violence against journalists, which may have led to self-censorship.

When looked at in isolation, some – though not all – of the arguments advanced by key institutions in support of their actions appear somewhat justifiable. Yet, collectively, it could not go unnoticed that these decisions consistently limited one party's ability to contest the election on a level playing field.

On election day, the failure of the digital results transmission due to the shutdown of cellular services significantly reduced the transparency of the process. The Group noted a number of discrepancies between polling station results forms and tabulated results forms at the constituency level, which may have resulted in some candidates being unlawfully returned.

Our Group makes a number of carefully considered recommendations for improving future elections in Pakistan, which we hope will be received in the Commonwealth spirit of mutual learning and cooperation. Yet, we are conscious that the fundamental challenges impacting the credibility and transparency of elections are political in nature, and political challenges require political – rather than technical – solutions. It is our hope that Pakistan's political parties can break the cycle of zero-sum politics, and move towards a politics based on shared respect, tolerance and trust.

Yours sincerely,

H.E. Dr Goodluck Jonathan
Former President of the Federal Republic of Nigeria
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Acronyms and Abbreviations

ACHPR	African Commission on Human and Peoples' Rights
ACLED	Armed Conflict Location and Event Data
AFP	Agence France-Press
AI	artificial intelligence
ANP	Awami National Party
ARO	assistant returning officer
CEC	Chief Election Commissioner
CEDAW	Convention on the Elimination of All Forms of Violence Against Women
CHOGM	Commonwealth Heads of Government Meeting
CLA	Commonwealth Lawyers Association
CMCC	Central Monitoring Control Centre
CNIC	computerised national identity card
COAS	Chief of Army Staff
COG	Commonwealth Observer Group
CPDI	Centre for Peace and Development Initiatives
CRPD	Convention on the Rights of Persons with Disabilities
CSO	civil society organisation
DMO	District Monitoring Officer
DRF	Digital Rights Foundation
DRO	district returning officer
DVEC	District Voter Education Committee
ECP	Election Commission of Pakistan
EMS	Election Management System
FAFEN	Free and Fair Election Network
FATA	Federally Administered Tribal Areas
FATF	Financial Action Task Force
FY	financial year
GDEWG	Gender and Disability Electoral Working Group
GIA	Gender Interactive Alliance

ICCPR	International Covenant on Civil and Political Rights
ICNL	International Center for Non-Profit Law
ICT	Islamabad Capital Territory
IFES	International Foundation for Electoral Systems
IGO	inter-governmental organisation
IGP	Inspector General of Police
IHC	Islamabad High Court
IJI	Islami Jamhoori Ittehad
IMF	International Monetary Fund
INGO	international non-governmental organisation
ISI	Inter-Services Intelligence
ISIL	Islamic State of Iraq and the Levant
IVTF	Internet Voting Taskforce
JI	Jamaat-e-Islami
JUI-P	Jamait Ulama-e-Islam Pakistan
KP	Khyber Pakhtunkhwa
KPCSW	Khyber Pakhtunkhwa Commission on the Status of Women
MCO	Media Communications and Outreach (ECP Wing)
MoU	Memorandum of Understanding
N	Pakistan Muslim League (Nawaz)
NAB	National Accountability Bureau
NADRA	National Database & Registration Authority
NCHR	National Commission for Human Rights
NCPDP	National Commission for Personal Data Protection
NGO	non-governmental organisation
NIC	national identity card
NOC	No Objection Certificate
OAS	Organization of American States
OSCE	Organization for Security and Co-operation and Europe
PBC	Pakistani Broadcasting Corporation
PBS	Pakistan Bureau of Statistics
PDM	Pakistan Democratic Movement
PEAM	pre-election assessment mission
PECA	Prevention of Electronic Crimes Act

PEMRA	Pakistan Electronic Media Regulatory Authority
PILDAT	Pakistan Institute of Legislative Development and Transparency
PML-N	Pakistan Muslim League (Nawaz)
PPF	Pakistan Press Foundation
PPP	Pakistan People's Party
PRVT	Process and Results Verification for Transparency
PTA	Pakistan Telecommunication Authority
PTI	Pakistan Tehreek-e-Insaf
PWD	person with disabilities
RA	Revising Authority
RO	returning officer
RMC	Regional Monitoring Co-ordinator
RMS	Results Management System
RTI	Right of Access to Information
RTS	Results Transmission System
SIC	Sunni Ittehad Council
TDEA	Trust for Democratic Education and Accountability
TTP	Tehreek-e-Taliban Pakistan
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme
UPR	Universal Periodic Review
USAID	United States Agency for International Development

Executive Summary

Following an invitation from the Election Commission of Pakistan (ECP) through the Ministry of Foreign Affairs, the Commonwealth Secretary-General, the Rt Hon. Patricia Scotland KC, constituted a Commonwealth Observer Group (COG, or 'the Group') for the 8 February 2024 National and Provincial Assembly elections, in line with the provisions of the 2018 Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries.

The Pakistan COG was chaired by His Excellency Dr Goodluck Ebele Jonathan, former President of Nigeria, and 12 other eminent Commonwealth citizens (Annex I). A staff team of nine from the Commonwealth Secretariat provided technical support to the Group.

The Group was briefed on preparations and the political environment ahead of the 2024 elections by the ECP, representatives of political parties, the Inspector General of Police (IGP) of the Islamabad Capital Territory (ICT), the Chief Justice of Pakistan, the Supreme Court Bar Association, representatives of the media, Commonwealth diplomats, inter-governmental organisations (IGOs) and international non-governmental organisations (INGOs). It was also briefed by a range of civil society organisations (CSOs), including those active in citizen observation, digital rights, fact-checking, the rights of women, persons with disabilities (PWDs), religious minorities and the transgender community. The Chair of the COG also met separately with the Honourable Chief Election Commissioner, the Caretaker Prime Minister, the Minister of the Interior and the Chief of Army Staff of Pakistan.

In accordance with its mandate, the Group undertook to assess the election day administrative process within the wider legal, political and democratic context in which it took place, and considered a broad array of factors affecting the credibility, transparency and inclusivity of the elections. These included the protection of civic and political rights, such as freedom of association, assembly, conscience and expression; freedom to vote and stand for election; institutional independence and impartiality; the equality of the vote; electoral jurisprudence; the role and freedoms of civil society; freedom of the press and campaign coverage; the inclusion of women, youth, PWDs and marginalised groups; and administrative aspects of the election.

In addressing each of these areas in turn, and collectively, the Group formed a nuanced assessment of the credibility, transparency and inclusivity of the elections. The Group makes a series of recommendations, targeted to specific stakeholders, that it hopes will help further strengthen the electoral process in future cycles (see 'Table of 2024 recommendations' below).

Security environment

The administration of an election represents one of the largest peacetime resource mobilisation efforts that any democratic country will undertake. Yet few countries confront security challenges of such breadth and severity as those that face Pakistan. While noting the unfortunate loss of lives in attacks and incidents prior to and after the elections, the Group wishes to commend the ECP, the temporary workforce and the security services for their role in ensuring the elections were administered as peacefully as possible. Voters, particularly those in Balochistan and Khyber Pakhtunkhwa, are to be commended for demonstrating their commitment to representative democracy despite the risks.

Political environment and campaign

The Group considers that the fraught political environment leading into the elections was, in many ways, a continuation of the tensions that have characterised Pakistani politics since its return to multi-party democracy. A continuing track record of prime ministers failing to complete full electoral cycles provided an inauspicious backdrop to these elections. While the impacts of Covid-19 and the war in Ukraine on the economy presented significant political challenges to the Pakistan Tehreek-e-Insaf (PTI) government, the Group is aware of reports that disagreements relating to key appointments contributed to a chain of events that resulted in the vote of no confidence in Prime Minister Imran Khan. Mr Khan's subsequent arrest on 9

May 2023 precipitated nationwide protests, including unprecedented attacks on military installations, and the arrest and detention of hundreds of PTI members and supporters. In the aftermath of the protests, the Official Secrets Act and the Army Act were amended, including to allow civilians to be tried in military courts.

The prevailing political and security environment had negative impacts on the ability of all political parties to campaign freely, and to an equal degree. The Group received multiple reports of PTI members and supporters being arrested, detained and undergoing unexplained periods of disappearance, and of PTI offices and PTI members' homes being closed or raided. These occurrences affected the ability of parties and candidates to exercise their fundamental constitutional rights of freedom of association and assembly. The Group also notes that interruptions to national internet connectivity appeared, on more than one occasion, to coincide with one political party's online campaign and fundraising events. This represents a restriction on fundamental political rights, including freedom of association, assembly and expression.

Legal environment

The Constitution and the Elections Act provide for the holding of credible, transparent and inclusive elections. While the Group makes a series of recommendations for strengthening some laws, its main concern is not so much the legal framework but rather the interpretation and application of the law and exogenous factors that have impacts on the work of the judiciary.

The Group is deeply concerned about a number of the legal challenges brought against former Prime Minister Imran Khan that prevented his participation in the election. The Group notes the various concerns raised by the Supreme Court and Islamabad High Court (IHC) regarding both the evidentiary basis for some of the charges and apparent inconsistencies in the application of judicial process by special courts. The Group's other concern is with the timing of these cases. The trio of convictions of the leader of the largest opposition party, each handed down within days of each other and within days of the election, naturally raises suspicions regarding a political substrate to these convictions. Indeed, the Supreme Court appeared to address such concerns when granting Mr Khan bail in the so-called cipher case, warning of the deleterious consequences for Pakistan's democracy of incarcerating elected politicians under the 'contrive[d] doctrine of necessity'. The Supreme Court's use of a term that denotes military influence in political affairs reflects a concern shared by many stakeholders, and indeed the Group.

In reviewing various decisions taken by the Supreme Court and some high courts in relation to candidate nomination cases and other electoral matters, the Group notes a number of decisions that upheld democratic principles and the rule of law, and that pursued pro-enfranchisement and pro-candidate principles where possible so as to maximise the choice available to voters at the ballot box. This is a commendable approach.

However, jurisprudential inconsistencies in two of the most significant and consequential cases in the pre-election period had severe impacts in terms of the level nature of the playing field. These were the Supreme Court's reversal of the lifetime ban for politicians, and the ECP's decision, later upheld by the Supreme Court, to withhold the bat symbol from PTI and to register PTI candidates as independents.

Regarding the reversal of the lifetime ban, while the Group notes the convincing legal, democratic and indeed pro-candidate points raised in the Court's judgement, the Group is moved to consider the context in which the 2018 and 2024 judgements were made. The Court's 2018 judgement looked set to the end the political career of former Prime Minister Nawaz Sharif at a time when he was widely regarded to be out of favour with the 'establishment' (i.e. the military and security services). Six years later, and with the political landscape having shifted significantly, the Court's *volte-face* revived the former premier's career mere days before nomination day. Irrespective of the legal and democratic merits of the Court's 2024 decision, such inconsistencies, especially considering their impact on the election, contributed to perceptions of an unlevel playing field.

Regarding the non-allocation of the bat symbol, the Group notes the legitimate concerns of the ECP and the Supreme Court regarding the validity of PTI's intra-party elections. However, the Group avers that the consequences of this decision for one of the largest parties in the country – in terms of both the voters' ability to exercise their franchise and the allocation of reserved seats – was highly disproportionate to the offence.

Jurisprudential consistency, and the ability of courts to act free from outside interference, was thrown into sharp relief by the publication of a letter, six weeks after the election, by six judges of IHC. The letter contained various grave allegations, including of intimidation of judges, the abduction and torture of a judge's family member and surveillance of judges' homes by the security services. The Group is immensely concerned by these allegations, and by the possibility that such interference may have occurred in relation to election-related court cases. The Group urges the Supreme Court to undertake its announced *suo moto* investigation with the requisite rigour and transparency, commensurate with the seriousness of these claims.

Census and boundary delimitation exercise

The Group notes two key concerns regarding the census, and their impact on the delimitation exercise: timing and transparency. Regarding the former, the series of delays in administering the census resulted in the postponing of the date of the elections beyond the temporal limit provided for in the Constitution, and in a compressed period for delimitation that placed enormous pressure on the ECP. Regarding transparency, the Group notes that the full results of the census were not released prior to the election. Concerns were raised regarding the reduction of the total population by 9 million, 7 million of them in Balochistan, between the provisional announcement of the census and their eventual approval by the Council of Common Interests.

The Group also notes the concerns of CSOs, including the Free and Fair Election Network (FAFEN), regarding the number of constituencies whose size fell beyond the legally permitted variance, and the possible impact this had on the equality of the vote. While appreciating that the typical period between such exercises is 10 years, there may be a need for another delimitation exercise ahead of the next election, potentially involving an amendment to Article 51 of the Constitution.

Participation and inclusion

The Group notes the commendable efforts of the ECP to ensure inclusive elections. The ECP's expansion of its Gender and Social Inclusion Wing was a worthwhile endeavour, to which the closing of the voter registration gender gap to just 7.7 per cent may partly be attributable. The Group also notes that the 2024 elections saw youth turnout, by some estimates, reach parity with the national average for the first time. Other commendable achievements included the establishment of the ECP's gender hotline for the reporting of harassment and intimidation. While noting a concerning edict by a religious group prior to the elections seeking to discourage women's political participation, the Group notes that there was no constituency in which turnout was lower than 10 per cent. Nevertheless, the Group regards this to be a low bar that should be raised.

It is evident that much more needs to be done to encourage women's political representation. Such efforts extend to the ECP: the Group notes the lack of timely action of the ECP with regard to the failure by a number of political parties to nominate the minimum required number of female candidates. The Group also notes the need to amend the quota of women parliamentarians in order to achieve the Convention on the Elimination of All Forms of Violence Against Women (CEDAW) target of 30 per cent.

The Group is concerned by the continued obstacles to the participation of the Ahmadiyya community in the country's political sphere. Certain provisions of the Elections Act, and the maintenance of separate voter rolls, are inconsistent with Pakistan's commitments in its own Constitution and in international law.

Media

The Group is concerned regarding certain provisions in laws such as the Pakistan Electronic Media Regulatory Authority Ordinance and the Pakistan Electronic Communications Act, and their impact on freedom of expression. It is noted that some directives by media regulators appeared to target certain individuals. The Group is also concerned by levels of violence – including killings – against journalists in Pakistan and the lack of prosecution of perpetrators. Of particular concern is the relative lack of action taken by state institutions, including law enforcement, to seek justice for the victims.

Election day administration

While the Group observed a number of issues that need addressing, for the most part voters were able to cast their vote freely and with the secrecy of the ballot assured. However, of significant concern is the shutting-down of the cellular network across the country on election day. This affected almost every electoral stakeholder in various ways, including the ECP, and limited fundamental political rights, including freedom of expression and assembly and access to information. The ECP confirmed in the post-election period that the shutting-down of the cellular network – a decision that was outside its control – was responsible for the failure of the Election Management System (EMS). This resulted in a failure to digitally transmit results in accordance with the law, and led to reliance on manual transmission of results to Returning Officers (ROs).

Shutdowns of cellular networks on election day have been condemned in numerous international resolutions and statements, as well as in reports by UN Special Rapporteurs, as contrary to international law in all circumstances. The Group acknowledges the concerns of security agencies regarding specific threats but is concerned that the impact on the transparency and integrity of the electoral process, and on the protection of fundamental political rights, was substantial and deleterious.

Notwithstanding concerns regarding a lack of adequate testing, the Group has little doubt that the ECP has the requisite in-house expertise to develop and administer electoral technologies. However, the ECP must be supported by other stakeholders to allow these technologies to work as intended.

The ECP appeared inadequately prepared for the impact of the failure of the EMS, despite widespread predictions of such a shutdown of cellular services on election day. The manual transmission of results caused significant delays in their tabulation, and the failure of the EMS significantly reduced transparency in the process. Critically, the lack of digitally transmitted results forms expanded opportunities for the manipulation of Forms 45, 46 and 47. Indeed, the Group surveyed a wide range of documentation that appeared to indicate that, in some cases, copies of Forms 45 held by party agents differed from those used in the tabulation of results that later appeared on the ECP website, with vote totals and turnout figures altered. Analysis by CSOs also appears to show some polling stations with unfeasibly high voter turnout figures, or very high differentials between the turnout for National Assembly and Provincial Assembly elections within the same constituencies. The Group is concerned that this could have resulted in a number of candidates being inappropriately returned as elected.

Post-election petitions

The Group is conscious that, at the time of publication, the majority of post-election petitions are yet to be disposed of, with many unlikely to be resolved within the legal timeframe. The impact of these delays on the composition and functioning of the legislature is significant. Meanwhile, the National Assembly passed two retroactive amendments to the Elections Act in the post-election period. The first granted the ECP the authority to appoint retired judges to these same election tribunals, while the second aimed to reverse the Supreme Court's decision relating to reserved seats. International good practice provides that electoral laws should not be amended even one year *prior* to an election; the passing of retroactive legislation several months *after* an election that affects extant election petitions cannot be regarded as democratic.

Conclusion

A number of critical decisions made by key institutions throughout the election process had significant impacts on the level playing field for the holding of democratic elections. Perhaps most critical were the decision of the ECP and the Supreme Court in relation to the bat symbol and the Supreme Court's reversal of the lifetime ban. Other significant institutional decisions included arrests of opposition members, the decision to shut down the cellular network on election day and decisions by media regulators regarding the prohibition of certain broadcasted content. When looked at in isolation, some – though not all – of the arguments advanced by these institutions in support of their actions appear justifiable and with a solid legal basis. Yet, when viewed together, they present a picture of an electoral environment in which decisions by key institutions consistently limited the ability of one particular party to contest the elections. Ultimately, these decisions impinged on the credibility, transparency and inclusiveness of the electoral process.

The Group returns to an observation made earlier: that the fraught political environment leading into the elections represented a continuation of the tensions that have characterised Pakistani politics since its return to multi-party democracy. Pakistan's electoral politics appear to be characterised by a zero-sum, winner-takes-all approach, in which parties are incentivised to take a maximalist approach to achieving and maintaining power, even at the expense of the political rights of others. This is a pattern that has played out over successive electoral cycles, with different parties at the helm. The conditions that produce these incentives stem from a conception of the state, by the security apparatus, that prioritises security above the flourishing of democratic institutions. The Group regards as fallacious the notion that security must come at the expense of democracy.

The potential of Pakistan's democracy is enormous. Pakistan has a vibrant and diverse media; women and the youth are more engaged than ever; and Pakistan's CSOs play a critical role in the democratic life of the country, continually pushing for reform and improvement. Yet, ultimately, the improvement of electoral processes will fundamentally depend on the broader political conditions in which elections are held, and on the ability of political parties, the ECP and the judiciary to be able to act free from outside pressures, and with a sense of common national purpose. For democracy to flourish in Pakistan, there must be a much clearer demarcation between military and civilian authority in line with the country's Constitution and international law. To achieve this, political parties must break the cycle of zero-sum retributive politics and foster greater levels of trust and tolerance in each other. Political parties and all organs of the state, including the military, must establish new rules of engagement that place the sanctity of independent democratic institutions and processes out of the bounds of political manoeuvrings.

Table of 2024 recommendations

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
Chapter 3: Legal Framework and Electoral Administration			
1	The Elections Act, and any other relevant law, should be amended to ensure the ECP's budget for the administration of elections is disbursed annually or at regular and predictable intervals so as to enhance the ECP's ability to plan and administer elections. The funding should be commensurate with the ECP's requirements for administering elections, and should align with the ECP's budget so far as is possible. In the interests of transparency, reasons should be provided for any significant divergence between the ECP's budget and the funds disbursed by the Ministry.	Government National Assembly	Legal/Regulatory
2	The Elections Act should be amended to incorporate the possibility of the ECP receiving external financial resources and technical assistance in order to augment and complement national funding.	Government National Assembly	Legal/Regulatory
3	In order to increase transparency and foster trust in the process, the Pakistan Bureau of Statistics should ensure timely release of the full census results after each census, and ensure full explanations are provided for any significant changes to population counts between the publication of the preliminary and the final figures.	Pakistan Bureau of Statistics	Administrative/Technical
4	Where a constituency population goes beyond the 10 per cent variance, or otherwise falls outside of any other legal provision or principle for delimitation, the ECP should publish reasons thereof for each constituency.	ECP	Policy
5	In order to facilitate the process for submitting representations on the preliminary delimitation report, the ECP should consider allowing such representations to be heard at the district or, at least, the provincial level.	ECP	Policy
6	The ECP should publish information on the total number of delimitation representations acted on.	ECP	Policy

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
7	In order to enhance the equality of the vote, the ECP should consider undertaking a boundary delimitation exercise in advance of the next general election in order to limit the number of constituencies that fall beyond the 10 per cent variance.	ECP	Administrative/Technical
8	Rather than holding a single consultative meeting with political parties on the Code of Conduct for Political Parties, Contesting Candidates and Party Agents, the ECP should consider a series of consultations so political parties can provide feedback on revisions of the draft Code prior to its finalisation. This may help achieve greater sensitisation and buy-in. The ECP should also ensure the Code is published in advance of the commencement of the official campaign period.	ECP	Administrative/Technical
9	The ECP should follow up on all complaints of breaches of the Code of Conduct to ensure the Code is respected and followed.	ECP	Administrative/Technical
10	The ECP should consider publishing a report on violations of the Code of Conduct, including reports of violations submitted to the ECP and information on actions taken against these reports. In the interests of transparency, the ECP may wish to consider including in the report instances where it chose not to act because an allegation lacked merit.	ECP	Administrative/Technical
11	In order to fully investigate grievous allegations of judicial interference and intimidation of judges, the Supreme Court should ensure its *suo moto* investigation is seen through to completion. The investigation should be thorough and should result in actionable and targeted recommendations, including to the military and security services, aimed at preventing unconstitutional interference in judicial affairs and the democratic life of Pakistan.	Supreme Court	Legal/Regulatory
12	The government and the National Assembly should conduct a review of the Elections Act 2017, in particular Sections 214–218, with a view to considering the objectivity, proportionality, consistency, enforceability and efficacy of sanctions for non-compliance with statutory requirements. The Group suggests that the Vienna Commission Guidelines on Political Party Regulation be considered as part of this review.	Government National Assembly	Legal/Regulatory
13	The government and the National Assembly should conduct a review of all provisions of the Elections Act relating to the registration status of political parties, with a view to clarifying the status of any party (and its candidates) to whom the allocation of a symbol has been refused.	Government National Assembly	Legal/Regulatory

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
14	The Supreme Court and lower courts should ensure, to the extent possible, consistency in the application of core democratic principles in dispensing decisions on electoral disputes or electoral cases heard under Article 184 (3) of the Constitution. To the extent that the courts may adopt a permissive jurisprudential stance, such a stance should be consistently applied.	Supreme Court High courts Election tribunals	Legal/Regulatory
15	The government and the National Assembly should consider an amendment to the Constitution and the Elections Act that clarifies the method for calculating reserved seats when one or more of the returned general seat candidates is an independent candidate and he or she chooses not to join another political party in the three-day window following official notification of the results.	Government National Assembly	Legal/Regulatory
16	The government and the National Assembly should ensure that no electoral laws are amended within one year of an election.	Government National Assembly	Legal/Regulatory
17	The government and the National Assembly should consider an amendment to the Elections Act that establishes a clearly independent process for the appointment of election tribunal judges, such as this role being given to the Judicial Commission of Pakistan.	Government National Assembly	Legal/Regulatory
18	The ECP should consider ensuring that no election tribunals are held in ECP buildings so as to strengthen trust in its independence.	ECP	Administrative/Technical
19	The government and the National Assembly should consider an amendment to the Elections Act to reduce the timeframe for filing an election petition from 45 days to 30 days, and for a tribunal to issue its decision from 180 days to 60 days.	Government National Assembly	Legal/Regulatory
20	The government and the National Assembly should consider an amendment to the Elections Act to reduce the timeframe for the Supreme Court to determine an appeal from 180 days to 90 days.	Government National Assembly	Legal/Regulatory
21	Election tribunals and the Supreme Court should ensure they adhere to the statutory timeframe for decisions.	Supreme Court Election tribunals	Administrative/Technical
22	To the extent possible, chief justices of the high courts should ensure that the caseloads of judges appointed to election tribunals consist solely of election petitions so as to ensure the tribunals are able to dispose of cases within the statutory timeframes.	High courts Election tribunals	Administrative/Technical

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No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
23	In order to expand the options available to the ECP in its pursuance of Section 94 (1) of the Elections Act on overseas voting, the government and the National Assembly should consider legislative amendments that would extend the voting period for overseas voters.	Government National Assembly	Legal/Regulatory
24	The Supreme Court and the ECP should co-operate on the provision of training to ROs on the jurisprudence of the Supreme Court regarding candidate nominations.	Supreme Court ECP	Policy
25	The government and the National Assembly should consider amending Section 51 to allow for ROs to be drawn from outside the civil service, such as from among university lecturers.	Government National Assembly	Legal/Regulatory
26	The government and the National Assembly should seek to amend Article 223(2) of the Constitution to limit the number of constituencies an individual can contest to one.	Government National Assembly	Legal/Regulatory
27	In order to expand opportunities for Pakistanis of modest means to contest elections, the government and the National Assembly should consider legislation that would place caps on party nomination fees.	Government National Assembly	Legal/Regulatory
28	The ECP may wish to consider the establishment of a multi-party committee that meets regularly to apprise parties of developments and milestones, and to hear and respond to concerns of grievances as and when they arise. Such a mechanism is aligned with international good practice and could increase transparency and help build trust, both in the ECP and between political parties.	ECP Political parties	Policy Administrative/Technical
29	The government should pass a data protection act that provides clear definitions of critical terms and aligns with international standards on data protection, such as Convention 108+. The act should ensure that any statutory body envisaged by the act is fully autonomous and is not subject to policy or other directives of the federal government.	Government National Assembly	Legal/Regulatory
30	The ECP should publish a redacted version of the voter register on its website in line with its obligations under Section 28 of the Elections Act.	ECP	Policy
31	For a fee, the ECP should provide political parties with a copy of the voter register. The ECP could consider the inclusion of security features within these copies.	ECP	Policy
32	Whether in the absence of a data protection act or in accompaniment to one, the ECP should consider publishing guidelines for political parties and candidates on the processing of personal information for political campaigning in a manner that respects voters' constitutional right to privacy.	ECP	Policy

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
33	The ECP should consider introducing a new provision in the Code of Conduct on the use of personal data for political campaigning.	ECP	Policy
	Chapter 4: Participation and Inclusion		
	Civil society organisations		
34	For future elections, CSOs should consider the feasibility of undertaking a Process and Results Verification for Transparency (PRVT) exercise. Should there be a need for any amendments to the Elections Act to provide for this, the government and the National Assembly should take the necessary steps.	CSOs Government National Assembly	Administrative/Technical Legal/Regulatory
35	The ECP should provide accreditation to CSOs that wish to undertake a PRVT exercise. In order that there is broad understanding of the purpose and legitimacy of such an exercise, the ECP should ensure that polling staff and law enforcement are fully sensitised on this issue.	ECP	Policy Administrative/Technical
36	In order to create a more enabling environment for CSOs, the government should review its policies and procedures in relation to their registration and regulation, with a view to simplifying and streamlining processes where possible and providing more support to CSOs seeking to navigate the regulatory environment.	Government	Policy Administrative/Technical
37	The National Assembly should pass a federal equivalent of the ICT's National Civic Education Act 2018 that establishes a federal commission on civic education. Such a commission should be appropriately resourced to provide education to citizens on their democratic and human rights. Such a commission should also co-ordinate closely with the ECP and relevant CSOs on the provision of voter education.	Government National Assembly	Legal/Regulatory
38	The ECP should review its election day and post-election communications protocols in order to ensure timely updates to the media and CSOs.	ECP	Administrative/Technical
	Women		
39	The ECP should continue its efforts to close the gender gap in the number of registered voters.	ECP	Administrative/Technical
40	In order to address instances of groups or actors attempting to disenfranchise women on polling day, the ECP should continue to work with CSOs and international donor organisations on the provision of gender-sensitive voter education that underscores the right of women not only to exercise their democratic right to vote but also to do so without undue influence.	ECP CSOs International donors	Administrative/Technical

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
41	The ECP should recruit and train more women to become Presiding Officers (POs), ROs and security officers.	ECP	Administrative/Technical
42	The ECP should take greater efforts to ensure POs and ROs record gender-disaggregated voter turnout on Forms 45 and 47.	ECP	Administrative/Technical
43	In light of the growing female voter population, the National Assembly should consider amending upward the legal provision (Section 9 (1)) for re-polling where the voter turnout fails to meet the 10 per cent quota of female voters.	Government National Assembly	Legal/Regulatory
44	The ECP should conduct sensitisation efforts especially in affected areas to ensure voters are aware of the recourse available to them where women are denied the right to vote.	ECP	Administrative/Technical
45	In instances where a group, organisation or public figure seeks to intimidate women into not voting, the ECP should refer such instances to the Public Prosecution Department for an investigation into whether such instances breach criminal law.	ECP	Policy
46	The ECP should work with political parties to re-sensitise them to the importance of the 5 per cent quota on women candidates.	ECP	Administrative/Technical
47	The ECP should ensure it takes timely action against parties that fail to meet the 5 per cent quota of female candidates as required by law, and publish a list of said parties.	ECP	Policy
48	In order to enhance women's political representation in line with Pakistan's commitments under CEDAW, the National Assembly should consider a legislative amendment to increase the 5 per cent quota for women candidates.	Government National Assembly	Legal/Regulatory
49	The government and the National Assembly should consider a legislative amendment to increase the current quota for the representation of women in parliament to 30 per cent, in line with CEDAW's recommended target.	Government National Assembly	Legal/Regulatory
50	The government and the National Assembly should consider adopting measures and creating enabling conditions that empower women to contest in national and provincial elections and participate in parliament through direct elections.	Government National Assembly	Legal/Regulatory Policy

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
51	Political parties should ensure women are given senior decision-making positions within political party executive structures. Political parties may also wish to consider reserving certain positions within party executives to women.	Political parties	Policy
52	Political parties should review their processes for candidate nomination to ensure a greater number of women candidates are selected to contest general seats viewed as competitive by the party leadership.	Political parties	Policy
53	Political parties should invest in leadership training for women in order to nurture a new generation of female leaders, particularly women who are of modest means, who are not historically connected to a political party or who are from underrepresented backgrounds.	Political parties	Policy
54	In order to expand the pool of talented women with a demonstrated commitment to public life, political parties should consider a significant reduction in candidate nomination fees for women seeking to contest general seats.	Political parties	Policy
55	The ECP should consider additional measures to enhance women's political representation as candidates, such as reducing candidate nomination fees for women candidates seeking to contest general seats, or extending refunds for rejected nomination papers to general seats.	ECP	Regulatory Policy
56	The government and the National Assembly may wish to consider adopting measures to increase the number of women appointed to ministerial positions.	Government National Assembly	Legal/Regulatory
	Youth		
57	The ECP should record and publish statistics on the number of youth candidates for the National Assembly and provincial assemblies, as well as statistics on the number of successful youth candidates.	ECP	Policy
58	The government and the National Assembly should consider temporary special measures, via amendments to the legal framework, to increase youth representation, such as the allocation of reserved seats.	Government National Assembly	Legal/Regulatory
59	The ECP should consider measures to enhance youth representation, such as a reduction in candidate nomination fees for youth aspirants or refunds of nomination fees for youth candidates if their nomination paper is rejected. Political parties should include youth in a meaningful way in the development of all aspects of party manifestos and policies, not just in the development of policies directly targeted at youth.	ECP	Policy

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
60	Political parties should take more steps to appoint youth to decision-making positions within parties.	Political parties	Policy
61	Political parties should award significantly more party tickets to youth candidates. This would increase youth representation but also encourage youth non-voters who wish to vote for their cohort to turn out to vote on election day.	Political parties	Policy
62	Political parties should reduce party candidate nomination fees for youth candidates.	Political parties	Policy
63	Political parties should invest in mentoring and leadership programmes for youth members in order to cultivate the next generation of political leaders. Core civic and democratic values should be mainstreamed throughout these programmes.	Political parties	Policy
64	In order to build on the ECP's admirable efforts to engage youth, the ECP should include youth as a priority area in its next strategic plan to give policy backing to initiatives already undertaken towards the inclusion of this population in the electoral process.	ECP	Policy
65	The ECP should consider replicating the model used for the Gender and Disability Electoral Working Group (GDEWG) for youth, and use this model to hold more consultative meetings with youth groups, CSOs, political parties and other interest groups to identify and resolve issues that hinder youth participation in the electoral process.	ECP	Policy
66	The ECP should be commended for publishing disaggregated voter data on male and female voter turnout. As part of broader efforts to identify reasons for low youth voter turnout, and in order to better inform legislative and policy changes, the ECP should expand the categories of disaggregated data to include age and persons with disabilities, as well as sex.	ECP	Policy
67	In order to address low voter turnout among youth, the ECP should consider a number of methods to improve its youth voter education outreach. Such measures could include expanding voter education campaigns beyond higher education institutions; expanding its voter education campaigns in rural areas where illiteracy rates are higher, including by increasing the use of videos; ramping up the existing use of social media platforms; and ensuring youth representation on district voter education committees.	ECP	Policy

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
	Persons with disabilities		
68	In order to establish the reasons for low voter registration figures among PWDs – including the differential between women and men PWD registered voters – the ECP should work closely with PWDs and women CSOs to conduct research in this area such that it can identify solutions and better target its outreach and registration efforts. Such solutions could include using PWD-targeted radio adverts to announce the date and venues of voter awareness sessions, at which PWDs could be assisted in registering to vote.	ECP CSOs	Policy
69	The ECP should maintain and publish disaggregated data on PWD candidates. This data could help inform ECP, political party and other stakeholder efforts to increase PWD representation in the National and Provincial Assemblies.	ECP	Policy
70	The ECP should consider assessing the feasibility of registering PWDs at a number of specially selected polling stations, in order to concentrate the provision of services for PWDs at these stations.	ECP	Administrative/Technical
71	The ECP should review all polling stations to ensure that all are equipped with ramps for wheelchair users and that polling stations are located on the ground floor so far as is possible.	ECP	Administrative/Technical
72	In order to iron out occasional inconsistencies in the provision of assistance, the ECP should increase its training to polling officials on how to assist PWDs in the voting process.	ECP	Administrative/Technical
73	The ECP should consider publishing disaggregated data on PWD voter turnout in order to inform policy decisions and the preparation and provision of facilities to support PWDs.	ECP	Policy
74	The ECP should consider using braille jackets for ballot papers as a cost-effective alternative to braille ballot papers.	ECP	Administrative/Technical
	Transgender		
75	Subject to the outcome of the Supreme Court petition on the revocation of Sections 2 (f), 3 and 7 of the Transgender Persons Act, the Pakistan Bureau of Statistics should review its census methodology to ensure the total population of transgender persons is accurately reflected.	Pakistan Bureau of Statistics	Administrative/Technical

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
76	Pursuant to Section 48 of the Elections Act, the National Database & Registration Authority (NADRA) and the ECP should review their methods of co-ordination to ensure expeditious processing of computerised national identity cards (CNICs) and voter registration of transgender persons.	ECP NADRA	Administrative/Technical
77	The ECP should work with transgender CSOs to encourage transgender citizens to vote, including through the production of targeted voter education materials.	ECP	Policy
78	The ECP should consider including the issue of transgender participation within the GDEWG in order to give due attention to issues affecting transgender participation and representation.	ECP	Policy
79	The ECP should seek to increase public sensitisation of transgender candidates, who are still marginalised in their communities.	ECP	Policy
	Ahmadiyya community		
80	In furtherance of its obligations under the International Covenant on Civil and Political Rights (ICCPR), the government should seek to amend those provisions of the Pakistan Penal Code and the Code of Criminal Procedure that negatively affect the fundamental civil and political rights of the Ahmadiyya community.	Government National Assembly	Legal/Regulatory
81	The ECP should take action to integrate the Ahmadiyya into the general voter roll.	ECP	Policy Administrative/Technical
82	In order to align the Elections Act with the Constitution, as well as Pakistan's commitments under the Universal Declaration of Human Rights and the ICCPR, Section 48A relating to the status of Ahmadis should be expunged, so that there be no requirement for any individual to sign a declaration relating to their religious status as a precondition for registering to vote. Similarly, there should be no requirement under the rules and procedures for obtaining a CNIC from NADRA that an individual be compelled to state their religious status or affiliation.	Government National Assembly	Legal/Regulatory
83	The ECP should be more proactive in the prosecution of electoral offences where individuals seek to curtail the freedom of choice, specifically in the context of religious minorities.	ECP	Legal/Regulatory

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No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
	Prisoner voters		
84	The ECP should undertake voter awareness campaigns for prisoners further in advance of the election, so as to ensure prisoners have adequate time to complete any administrative tasks, such as obtaining a CNIC and submitting a postal ballot application.	ECP	Policy
85	The ECP should consider establishing a joint taskforce with prison authorities on prisoner voting in order to provide improved assistance to prison voters and smooth the process for obtaining postal ballots.	ECP	Administrative/Technical
	Chapter 5: The Campaign and the Media		
	The campaign		
86	In fulfilment of the country's constitutional obligations on freedom of expression and its commitments under international law, relevant state agencies and regulators should ensure that internet services are not purposefully disrupted during the campaign period.	Government National Assembly	Legal/Regulatory
87	The police and other relevant security services should ensure a safe environment for all candidates throughout the campaign period. The police may wish to consider carrying out security assessments to establish those candidates who may face additional security threats and therefore require additional security.	Police	Policy
88	The police should ensure all instances of electoral and political violence are properly investigated, and the perpetrators prosecuted.	Police	Legal/Regulatory
89	The government and the National Assembly should consider amendments to the Elections Act and Election Rules to include caps on donations to political parties and caps on political party expenditure during campaigns. These amendments should include sanctions for violations, with the ECP empowered to issue said sanctions.	Government National Assembly	Legal/Regulatory
90	The government and the National Assembly should consider an amendment to the Elections Act and Election Rules to ensure greater scrutiny over party campaign expenses for candidates and political parties paid for by third parties.	Government National Assembly	Legal/Regulatory

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
91	In order to provide the ECP with flexibility to (re-)scrutinise Form C beyond the 90-day cut-off point, the government and the National Assembly may wish to consider an amendment to Section 136 (2) of the Elections Act to allow for expense returns to be open to scrutiny by the ECP for a period of at least one year.	Government National Assembly	Legal/Regulatory
92	The government and the National Assembly should consider an amendment to the Elections Act to allow for the public inspection of Forms D and 69.	Government National Assembly	Legal/Regulatory
93	In order to increase transparency, and in consideration of Section 135 of the Elections Act and Section 135 (2) of the Elections Rules, the ECP should consider establishing an online portal for members of the public to inspect all campaign expenditure forms. The amendments should be aligned with any data protection law that may in future be passed.	ECP	Administrative/Technical
94	The government and the National Assembly may wish to consider amendments to the Elections Act to include specific provisions governing the use of paid political adverts both offline and on social media platforms, such as requiring all paid ads to state the source of funding; requiring ads to be registered with the ECP; and requiring this list to be made available for public inspection online.	Government National Assembly	Legal/Regulatory
The media			
95	The Pakistan Broadcasting Act of 1973 should be amended to further strengthen the independence of the Pakistan Broadcasting Corporation (PBC), including via amendments to the appointments process of the Board, such as by a parliamentary committee, and consider legislative amendments that limit government interaction with the PBC to funding, auditing and annual reporting. Appointment of its director general should be undertaken by a Board that is representative of the broader sphere of society, including the media union or federation and not just government officials, as currently constituted.	Government National Assembly	Legal/Regulatory
96	The government and the National Assembly should consider an amendment to Article 19 of the Constitution to ensure full alignment with Article 19 of the ICCPR.	Government National Assembly	Legal/Regulatory
97	The government and the National Assembly should consider amendments to the Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance and the Code of Conduct in order to provide greater clarity on proscribed content and to ensure the Ordinance and the Code's provisions align with Article 19 of the ICCPR.	Government National Assembly	Legal/Regulatory

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
98	The government and the National Assembly should review the Prevention of Electronic Crimes Act to ensure it aligns with Article 19 of the ICCPR.	Government National Assembly	Legal/Regulatory
99	In order to uphold freedom of expression, the government and the National Assembly should consider amendments to the PEMRA Ordinance and Code of Conduct to ensure they are in line with international law.	Government National Assembly	Legal/Regulatory
100	In order to counter mis- and disinformation, the ECP, PEMRA, the media, social media platforms, civil society and other relevant stakeholders should consider collaborating on non-coercive efforts to combat mis- and disinformation, such as the establishment of mechanisms for the reporting of disinformation to platforms and protocols on maximum response times.	ECP PEMRA Media Social media platforms CSOs	Policy
101	The ECP and political parties should consider an amendment to Section 44 of the Code of Conduct for Political Parties, Contesting Candidates and Party Agents to include provisions on artificial intelligence and deepfakes in election campaigns.	ECP Political parties	Legal/Regulatory Policy
102	The ECP should take proportionate and timely action against political parties and candidates who violate Section 44 of the Code of Conduct for Political Parties, Contesting Candidates and Party Agents.	ECP	Policy Administrative/ Technical
103	Political parties should consider producing an awareness campaign with their supporters, aimed at enhancing public understanding of the harms of disseminating various forms of disinformation.	Political parties	Policy
104	In order to take long-term action to address mis- and disinformation, the Ministry of Federal Education and Professional Training should work with media houses and federations to enhance media literacy among Pakistan's youth, including through the introduction of media literacy in schools. Such efforts should be incorporated into broader efforts to provide enhanced civic education to Pakistan's youth.	Ministry of Federal Education and Professional Training Media (including unions and federations)	Policy
105	The government, the National Assembly and Provincial Assemblies should consider amendments to the Penal Code and any other relevant legislation to remove criminal defamation.	Government National Assembly	Legal/Regulatory

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
106	The government and the National Assembly should consider amendments to the Prevention of Electronic Crimes Act, the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules and the Citizens Protection (Against Online Harms) Rules in relation to content moderation and removal in order to bring these provisions in line with Article 19 of the ICCPR and General Comment No. 34.	Government National Assembly	Legal/Regulatory
107	The government and the National Assembly should consider an amendment to the Right of Access to Information Act to stipulate that the ECP and other bodies established by the Constitution are subject to the provisions of the Act.	Government National Assembly	Legal/Regulatory
108	The government and the National Assembly should consider expunging Section 6 of the federal Protection of Journalists and Media Professionals Act, such that the Act does not place obligations on journalists as a precondition for being protected.	Government National Assembly	Legal/Regulatory
109	The government should establish an independent commission on the protection of journalists and media professionals, as envisaged by Section 12 of the Protection of Journalists and Media Professionals Act, and should ensure it is appropriately resourced to undertake its work. In line with the provisions of the Act, the envisaged commission should work with state institutions and political actors to enhance monitoring and reporting of attacks on journalists.	Government	Legal/Regulatory
110	In furtherance of the provisions of the Protection of Journalists and Media Professionals Act and the UN Plan of Action on the Safety of Journalists, the government should work with law enforcement, the ECP, media rights groups and Pakistani media unions and federations to investigate and bring to justice perpetrators of violence against journalists, especially during elections.	Government ECP Media rights groups Media (including unions and federations)	Legal/Regulatory Policy
111	Media owners and unions should invest resources and build capacity in relation to the monitoring and provision of journalist and media practitioner welfare.	Media (including unions and federations)	Policy Administrative/ Technical
112	Political parties should ensure their supporters adhere to the ECP Code of Conduct for Political Parties, Contesting Candidates and Election Agents, specifically Sections 10–15 relating to violence and/or exerting influence on the media.	Political parties	Policy Political

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
113	Law enforcement should ensure timely and consistent enforcement of all laws pertaining to the safety of journalists.	Police	Legal/Regulatory Policy
114	Provincial and federal governments should consider strengthening media laws to ensure the distribution of government advertisements in the media does not take into consideration editorial content. The government and the National Assembly may wish to consider the establishment of a joint state and media advertising agency that allocates government advertising in a fair and equitable manner, for instance on a rotational basis.	Government National Assembly Provincial Assemblies	Legal/Regulatory
115	Media houses should ensure they provide equitable coverage of all political parties and candidates.	Media	Policy
116	PEMRA should ensure equal application of legal and regulatory provisions related to campaign media coverage, and that no undue restrictions are imposed on the media's freedom of expression in respect of campaign coverage.	PEMRA	Legal/Regulatory
117	Media houses should ensure full compliance with the silence period.	Media	Policy
118	Relevant media regulators and the ECP should take appropriate action against media houses that violate the silence period or other provisions of the media Code of Conduct.	Media regulators ECP	Legal/Regulatory
119	In the spirit of co-operation, the ECP should consider either amendments to the media Code of Conduct, or the development of a memorandum of understanding with the media, setting out the ECP's obligations to the media in relation to the timely and transparent release of information.	ECP	Legal/Regulatory Policy
120	The government and the National Assembly should consider an amendment to relevant laws and regulations that would require the government to seek an emergency court order for general removal of transit of mobile or internet services, with any resulting orders being necessary, proportional and timebound.	Government National Assembly	Legal/Regulatory
121	The government and regulatory bodies should ensure compliance with court orders in relation to general removal of transit.	Government regulators	Legal/Regulatory

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
	Chapter 6: Voting, Counting and Results		
122	The ECP may wish to trial a staggered collection system at distribution centres in order to limit the overcrowding of POs and other polling staff, with POs provided timeslots to collect their materials. This could help limit the possibility of irregularities in the distribution of materials, make for a calmer working atmosphere for those orchestrating the distribution and reduce the length of time POs spend at the distribution centre. The ECP may also wish to consider establishing additional distribution centres to spread the workload.	ECP	Administrative/Technical
123	For future elections, the ECP should seek to position voting booths and CCTV cameras in such a manner that the secrecy of the ballot is assured.	ECP	Administrative/Technical
124	In order to reduce instances of voters casting their ballot in the incorrect box, the ECP could consider assigning an existing polling staff to guide voters in placing their ballots in the correct box.	ECP	Administrative/Technical
125	The ECP should consider introducing a protocol whereby POs must record hourly voter turnout in their election diary, and make this information available, on request, to the media, party agents and observers.	ECP	Administrative/Technical
126	Following consultations with the ECP, the government and the National Assembly should consider amendments to the Elections Act to provide for early voting for all polling staff as well as law enforcement, the armed forces and other emergency service personnel. Additionally, Section 93 of the Elections Act should be amended to provide additional clarity on the eligibility of the above categories of people to vote via postal ballot.	Government National Assembly	Legal/Regulatory
127	The ECP may wish to undertake feasibility studies in relation to the adoption of electronic voting machines, which could represent a more sustainable and environmentally friendly method of voting. The ECP should solicit the views and advice of academia, information security experts and CSOs during this process.	ECP Academia CSOs	Legal/Regulatory Administrative/Technical
128	The ECP should review the Code of Conduct for Political Parties, Contesting Candidates and Party Agents, with assistance from political parties, to consider (i) whether political parties should be involved in issuing 'chits' to voters that election officials use to locate the voter on the electoral roll; and (ii) whether the electoral roll could be prepared in a manner that facilitates speedier identification of voters' names.	ECP Political parties	Legal/Regulatory Policy

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
129	The ECP should conduct a thorough review of its polling stations to identify buildings with concrete ramps or other PWD-friendly means of access. All polling stations should ideally be on the ground floor.	ECP	Administrative/Technical
130	The ECP should provide additional training to polling staff regarding the assistance to be rendered to PWDs, the elderly, and pregnant and nursing mothers, so as to ensure such assistance is uniform.	ECP	Administrative/Technical
131	The ECP should expand its voter education to PWDs regarding the option to register for postal ballots.	ECP	Administrative/Technical
132	The ECP should ensure, to the extent possible, that all polling stations have sufficient space to accommodate polling agents, ideally at desks, so they are able to perform their duties with respect to marking voters off their copies of the voter register.	ECP	Administrative/Technical
133	Political parties should provide greater training to party agents so they better understand their role, including in relation to the opening and closing of polling.	Political parties	Policy
134	While there were high levels of acceptance of the counting process, the ECP should ensure stricter adherence to its standardised counting process in line with international good practice.	ECP	Administrative/Technical
135	The ECP should consider amending Form 45 to include a space or column for party agents who are unsatisfied with the accuracy of results, and who do not wish to sign the Form, to be able to state the reason why they are not signing.	ECP	Administrative/Technical
136	The ECP should consider clarifying rules relating to the signing of Form 45 by observers, such that the provision applies only to citizen observers/monitors and not to international observers.	ECP	Administrative/Technical
137	In order to identify and rectify any faults or weaknesses with electoral technologies, the ECP should undertake a larger testing regime that subjects the system to stresses comparable with those on election day. This testing regime should be as transparent as possible, up to and including allowing academics and CSOs to participate in the testing.	ECP CSOs Academics	Administrative/Technical
138	The ECP should undertake a thorough post-election lessons-learned review to identify the reason for the failures with the EMS, and to rectify these issues for future elections.	ECP	Policy

(*Continued*)

No.	Recommendation	Targeted stakeholder(s)	Type of recommendation • *Legal/Regulatory* • *Policy* • *Administrative/Technical* • *Political*
139	In order to reduce delays in the transmission and tabulation of results, the ECP should strengthen risk mitigation strategies in the event of a possible failure of electronic results transmission and tabulation technologies.	ECP	Policy
140	High courts should ensure that copies of all petitions are uploaded to their respective online cause lists in a timely manner.	High courts	Administrative/Technical
141	The ECP should provide accurate, timely and comprehensive information on the total number of petitions filed in the post-election period.	ECP	Administrative/Technical
142	The National Assembly should not pass retroactive legislation that has impacts on a recent election. Indeed, in accordance with international good practice, no laws that have direct impacts on an election should be amended within one year prior to the election (excluding by-elections).	Government National Assembly	Legal/Regulatory Policy
143	For future elections, the ECP should adopt a post-election communications strategy based on the principles of crisis communication, ensuring that regular and substantive updates are issued to the media and other stakeholders.	ECP	Administrative/ Technical

1. Introduction

This introductory chapter begins with a brief summary of the methodology of a Commonwealth Observer Group (COG, or 'Group'). It proceeds to provide an overview of this methodology as applied to the 2024 general elections in Pakistan.

Election observation by the Commonwealth

As set out in the 2005 *Declaration of Principles for International Election Observation* (the 2005 Declaration of Principles),[1] international election observation aims to enhance the integrity of election processes, including by deterring irregularities and fraud, promoting electoral participation and public confidence in the process, mitigating the potential for election-related conflict, offering recommendations for improving electoral processes and enhancing international understanding through the sharing of experiences and information about democratic development.

Since 1967, the Commonwealth has observed 200 elections in 39 countries.[2]

The 2018 Revised Guidelines

The *Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries* ('Revised Guidelines') were agreed by Heads of Government at the 2018 Commonwealth Heads of Government Meeting (CHOGM) in London, United Kingdom.[3]

The following are key provisions of the Revised Guidelines.

1. *COGs are independent, including of the Secretariat*

   Members of a COG are invited by the Secretary-General in their personal capacity as eminent Commonwealth citizens, not as representatives of any member country, government or political group.

2. *Observers are not monitors*

   Unlike some citizen observer groups, which are permitted to intervene or offer assistance to electoral officials in a limited manner, Commonwealth observers do not interfere in the electoral process.[4]

3. *Taking forward COG recommendations*

   The Revised Guidelines state that there should ideally be some form of domestic mechanism in place in each member country, to review the conduct of an election and take forward prospective reforms as required.

4. *Whole-of-election-cycle approach*

   Commonwealth engagement in consultation and agreement with a host member country may include a post-election return visit to deliver the final report, a mid-term follow-up mission upon request to assess the status of reforms and observation of other aspects of the electoral cycle. Further Commonwealth technical assistance or engagement, carried out in partnership and consultation, may also be considered as a result of a follow-up mission.

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[1] United Nations (2005) 'Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers'. https://bit.ly/43p4uV6

[2] To access the Commonwealth's collection of COG reports dating back to 1967, see https://library.commonwealth.int/Portal/External/en-GB/Collections/Collection/135

[3] CHOGM (2018) 'Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries'. https://bit.ly/3Oy0cqc

[4] Further information can be found in The Commonwealth (2019) 'Commonwealth Handbook on Election Observation'. https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/migrated/inline/GPD_Handbook_Election_Observation.PDF

Characteristics of Commonwealth Observer Groups

Like other organisations that conduct international election observation, the Commonwealth adheres to the 2005 Declaration of Principles. However, Commonwealth observer missions have particular characteristics, which include the following aspects.

1. *Eminent observers*

   While COGs may be smaller in size than some other international observer missions, they comprise eminent persons from across the Commonwealth, including current or former members of parliament, election officials, representatives of civil society and media, gender specialists, youth representatives and former members of the judiciary.

2. *Diverse observers*

   COGs should reflect the diversity of member countries and regions of the Commonwealth. They should also be gender-balanced.

3. *Potential Good Offices*

   The Chair of a COG is usually a senior political figure, and often a former Head of State or former Head of Government. In the exceptional circumstance of a deteriorating political environment, and if invited by the host government and other political actors, the Secretary-General may request the COG Chair to undertake a Good Offices role. Such Good Offices have played a vital part in ensuring peaceful transitions between governments on many occasions.

Commonwealth Observer Group for the 2024 Pakistan general elections

The Commonwealth Secretary-General, the Rt Hon Patricia Scotland KC, constituted a COG for the general elections on 8 February 2024 in Pakistan, following an invitation from the Election Commission of Pakistan (ECP), through the Ministry of Foreign Affairs. The Secretary-General's decision to deploy a COG was based on the findings of a pre-election assessment mission (PEAM) by staff of the Commonwealth Secretariat, who visited Pakistan in December 2023.

The COG was led by His Excellency Dr Goodluck Ebele Jonathan, former President of the Federal Republic of Nigeria, and 12 other eminent Commonwealth citizens. Biographies of all observers can be found in Annex I. A staff team of nine from the Commonwealth Secretariat provided technical support to the COG.

Terms of reference

The Group's terms of reference were as follows:

- *'The Group is established by the Commonwealth Secretary-General at the invitation of the Election Commission of Pakistan (ECP) through the Ministry of Foreign Affairs.*
- *The Group is to consider the various factors impinging on the credibility of the electoral process as a whole.*
- *The Group will determine in its own judgement whether the elections have been conducted according to the standards for democratic elections to which the member state has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth, including its Charter, and other international commitments.*
- *The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.*
- *The Group is to submit a report to the Commonwealth Secretary-General, who will forward it to the Government of Pakistan, the ECP, leaders of political parties, and thereafter to all Commonwealth member governments.'*

Activities

The COG was present in Pakistan from 1 to 14 February 2024. It was briefed on the preparations and the political environment ahead of the 2024 general elections by the ECP, representatives of political parties, the Inspector General of Police (IGP) of the Islamabad Capital Territory (ICT), the Chief Justice of Pakistan, the Supreme Court Bar Association, representatives of the media, Commonwealth diplomats, inter-governmental organisations (IGOs) and international non-governmental organisations (INGOs). It was also briefed by a range of civil society organisations (CSOs), including those active in citizen observation, digital rights, fact-checking, the rights of women, persons with disabilities (PWDs), religious minorities and the transgender community.

The Chair of the COG also met separately with the Honourable Chief Election Commissioner, the Caretaker Prime Minister, the Minister of the Interior and the Chief of Army Staff of Pakistan. On election day, the Chair also visited the ECP's Election Monitoring Control Centre at ECP Headquarters, the Islamabad Police Command and Control Centre at Safe City and the Free and Fair Election Network (FAFEN) situation room. The mission, including arrangements for the Chair, was facilitated by the Ministry of Foreign Affairs. The COG also benefited from information gathered during the PEAM, including the PEAM's meetings with additional stakeholders such as the Pakistan Electronic Media Regulatory Authority (PEMRA), the Pakistan Bar Council, the Attorney-General, the National Commission on Human Rights and academics.

The Group released its Arrival Statement on 4 February 2024 (Annex II).

On election day, members of the Group observed in the ICT as well as in locations in the Khyber Pakhtunkhwa (KP), Punjab and Sindh provinces (Annex III). The COG did not deploy to the province of Balochistan owing to security considerations.

In response to fatal attacks that occurred in the lead-up to the elections, including explosions that killed more than 20 people in Balochistan on the eve of the elections, the Chair issued a Statement on 7 February 2024 (Annex IV), which condemned the attacks and expressed condolences to the families of the victims.

The Group released an Interim Statement on 10 February 2024 (Annex V), which reflected its preliminary findings and observations. The Chair of the COG delivered this at a well-attended press conference and took questions from journalists.

A draft report was prepared in Pakistan prior to the Group's departure on 14 February 2024. The draft was finalised in London, signed by observers and thereafter transmitted to the Commonwealth Secretary-General.

2. Political Background

Post-independence history

At the time of its formation in 1947, Pakistan was the largest Muslim state in the world. In its early years, the country witnessed several civilian governments in succession. The country's first Constitution was promulgated in 1956, and Iskandar Ali Mirza became Pakistan's first President.

In 1958, the military, under the leadership of General Ayub Khan, who had previously served as Commander-in-Chief of the Army for several years, intervened to impose martial law. This marked the country's first experience with military rule. He was Pakistan's longest-serving President, holding office from 1958 to 1969. After Ayub Khan, General Yahya Khan headed the second military regime, from 1969 to 1971.

In the 1970 general elections, the electoral success of the Awami League, led by Sheikh Mujibur Rahman from East Pakistan, led to political tensions between East and West Pakistan, which resulted in military conflict. In 1971, East Pakistan seceded to become Bangladesh and, in December that year, General Yahya Khan handed over leadership to Zulfiqar Ali Bhutto, leader of the Pakistan People's Party (PPP). After introducing a new Constitution in 1973, which made the presidency largely ceremonial, he became Prime Minister. Though Mr Bhutto's PPP won the 1977 general elections, a military takeover ensued in July 1977, by General Mohammad Zia-ul-Haq, the then-Chief of Army Staff (COAS). General Zia ruled until his death in a plane crash in 1988.

The 1988 elections were a landmark democratic event, based for the first time in 15 years on political party platforms. The PPP won, and Benazir Bhutto, the daughter of Ali Bhutto, became Prime Minister. During Ms Bhutto's premiership, the opposition leader was Nawaz Sharif of the Islami Jamhoori Ittehad (IJI), which was a forerunner of the current Pakistan Muslim League (N), also known as PML-N. The two leaders alternated in power, with Nawaz Sharif becoming Prime Minister in 1990, while Benazir Bhutto won the 1993 election. Nawaz Sharif won the next election in 1997.

In 1999, the then-COAS General Pervez Musharraf removed Nawaz Sharif's administration in a military coup. Civilian rule was restored with elections held in February 2008, which saw the PPP's Asif Ali Zardari become President. Zardari was the widower of former Pakistan Prime Minister Benazir Bhutto, who was assassinated in 2007.

Between 2008 and 2018, Pakistan transformed from a system of two major parties to one of three. Imran Khan founded Pakistan Tehreek-i-Insaf (PTI) in 1996. PTI was successful in the 2018 elections. While the PPP and PML-N have strong voter bases in the provinces of Sindh and Punjab, respectively, PTI developed its voter base in the Khyber Pakhtunkhwa (KP) province, which, like the province of Balochistan, has been particularly affected by terrorism.

Recent political developments

PTI came to power in 2018 on an anti-corruption platform. In pursuit of its anti-corruption mandate, many opposition politicians were charged and imprisoned for corruption in the two years after the election. Some stakeholders conveyed that the anti-corruption drive was one-sided, targeting political opponents. While serving a 14-year prison sentence for corruption, Nawaz Sharif was permitted to travel to London in 2019 for medical treatment and did not return to Pakistan until October 2023.

Over the course of 2020, worsening economic conditions led to growing disenchantment with the government. These conditions were exacerbated by the onset of the COVID-19 pandemic and, later, the war in Ukraine. Against this backdrop, the traditional rival parties PML-N and the PPP came together in 2020 with other smaller parties to form the Pakistan Democratic Movement (PDM). The PDM held large rallies and demanded that Prime Minister Khan step down. In December 2021, PTI was defeated in the first phase of local elections in the KP province, its traditional political stronghold.

In April 2022, numerous reports in both local and international media noted that relations between then-Prime Minister Imran Khan and senior military figures had broken down owing to disagreements regarding the appointment of the next Director-General of the Inter-Services Intelligence (ISI).[5] Both PTI and the military denied a rift, yet analysts pointed to the combined impact of Mr Khan's fallout with the military, coupled with PTI's declining support in Parliament, in terms of Mr Khan's eventual loss of a vote of no confidence on 10 April 2022.[6] Mr Khan was succeeded by Shehbaz Sharif, a brother of Nawaz Sharif. Mr Khan presented his removal as being the result of a foreign-backed conspiracy. The apparent disclosure of a diplomatic cable protected by the Official Secrets Act, which Mr Kahn used as evidence for his allegation, would later result in his eventual conviction in the so-called 'cipher case' (see below).[7]

Though Mr Khan's popularity had declined, partly because of Pakistan's economic conditions, the economic situation did not show significant improvement after he stepped down as Prime Minister. Pakistan was affected by devastating floods in mid-2022. The agriculture sector, which accounts for 44 per cent of poor workers, suffered from damaged crops, exacerbating poverty.[8]

Mr Khan enjoyed a resurgence in popularity from mid-2022,[9] holding large rallies across the country. He faced a growing number of legal challenges, however, and on 21 October 2022 the ECP ruled that he had committed an offence of 'making or publishing a false statement or declaration' under Section 173 of the Elections Act in relation to the alleged sale of state gifts while in office. On 21 November 2022, criminal proceedings were initiated in an Islamabad session court, in what came to be known as the 'Toshakhana case'.[10] The same month, Mr Khan was injured in a reported attempted assassination, when a gunman shot at his convoy.

On 9 May 2023, Imran Khan was arrested and briefly detained in Islamabad for an alleged offence of corruption. The following day, he was indicted by an Islamabad session court. The 9 May detention of Mr Khan sparked mass protests, which also involved unprecedented attacks on military installations. In the aftermath of Mr Khan's release following three days in custody, thousands of leaders and supporters of PTI were reportedly arrested. Several key PTI figures stepped away from politics in the ensuing weeks.

Following the events of 9 May 2023, the government introduced the Pakistan Army (Amendment) Bill and the Official Secrets (Amendment) Bill. The Army Act amendments include a punishment of up to five years imprisonment for disclosing information that could harm Pakistan's national security or the armed forces; a ban on military personnel participating in political activities for between two and five years after retirement, resignation or dismissal, depending on seniority; and the prosecution of military personnel who defame or ridicule the army under the Prevention of Electronic Crimes Act (PECA). The amendments to the Official Secrets Act include the broadening of definitions of military installations, and bring digital communications within the law's ambit. The definition of 'enemy' is expanded to include those 'unintentionally working for a foreign agent, foreign power…', a provision that some stakeholders regarded as contrary to natural justice.

On 20 August 2023, the day the amendments to the two Acts were due to come into effect, President Arif Alvi posted on X, formerly Twitter, that he had not signed either of the Bills. He stated that he had instructed his staff to return the unsigned Bills within the stipulated time to render them ineffective but claimed his staff had failed to do this despite his repeated checking and their assurances. As a result, and as a function of law, the two Bills became law.[11]

In October 2023, a five-judge bench of the Supreme Court unanimously held that Section 59 (4) of the Army Act, which allows for the trial of civilians in military courts, was unconstitutional. It thus ordered that 103 accused in cases relating to violence in May 2023 be tried under ordinary criminal laws. However, in

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[5] www.aljazeera.com/news/2022/4/9/analysis-end-of-imran-khans-term; www.dawn.com/news/1684196

[6] www.atlanticcouncil.org/blogs/southasiasource/back-to-the-future-in-pakistan/

[7] The State vs Imran Ahmed Khan Niazi & Other, Case FIR No. 06/23/Case No. 01/2023.

[8] www.worldbank.org/en/country/pakistan/overview

[9] Polling by Gallup in early 2023 showed Mr Khan to be the most popular political leader, with 61 per cent of respondents giving him a positive rating. See https://gallup.com.pk/post/34223

[10] www.theguardian.com/world/2022/oct/21/ex-pakistan-pm-imran-khan-barred-elections-five-years

[11] See https://x.com/ArifAlvi/status/1693187170927030337?s=20

December, following an appeal filed by the Defence Ministry, a larger bench of the Court nullified its previous order and mandated military trials of civilians to continue.

On 5 August, Imran Khan was found guilty in the Toshakhana corruption case and was sentenced to three years' imprisonment. The ECP subsequently banned him from standing for election for five years. The conviction and imprisonment occurred in the same month as the National Assembly was dissolved and a caretaker government installed, with the expectation that general elections would be held by November 2023, as required by the Constitution.

On 29 August 2023, following an appeal by Mr Khan's lawyers, a division bench of Islamabad High Court (IHC) suspended the conviction and issued a release order stating that Mr Khan's bail had been approved and that he should be released if not wanted in any other case. However, he and former Foreign Minister Shah Mehmood Qureshi were soon arrested for another case, related to the alleged disclosure of a classified cable – the aforementioned 'cipher case'.[12] The case was heard by a special court established under the Official Secrets Act. On 21 November, IHC declared the trial null and void and the trial began afresh. On 22 December, the Supreme Court intervened in the case and granted Mr Khan bail, albeit allowing for future litigation, on the basis that 'there is no sufficient incriminating material available…'.[13] Mr Khan remained in prison owing to separate charges as well as his three-year prison sentence in the Toshakhana case (despite IHC's suspension of the conviction).

In mid-January 2023, the cipher case trial resumed, and witness testimonies were heard. On 26 January, owing to the failure of the defence counsel to appear in Court, the Court terminated Mr Khan's counsel's right to cross-examine and appointed public lawyers instead. On 30 January, eight days before the general elections, Mr Khan was found guilty and was sentenced to 10 years in prison.[14] Former Foreign Minister Shah Mahmood Qureshi was also convicted in this case, leading to his disqualification from contesting the poll.

On 31 January 2023, Mr Khan and his third wife, Bushra Bibi, were sentenced to 14 years in prison in relation to the Toshakhana corruption case – an 11-year increase on the previous 3-year sentence. On 3 February, the couple were also sentenced to a seven-year jail term after they were deemed to have violated the country's marriage law when they wedded in 2018.

In October 2023, exiled former Prime Minister Nawaz Sharif, who in 2018 had been found guilty of 2 separate corruption charges and sentenced to 10 and 7 years for these, respectively, returned to Pakistan following a 4-year self-exile in London. Upon his arrival in Pakistan, a court order prevented authorities from arresting him.[15] In November 2023, Nawaz Sharif's lawyers appealed to the National Accountability Bureau (NAB) for his 10-year sentence to be quashed. Since the NAB did not contest his appeal, IHC overturned the conviction.[16] In December 2023, IHC also overturned his seven-year conviction.[17]

The last remaining legal barrier to Nawaz Sharif's ability to stand as a candidate was his lifetime ban from standing for election, which had been ordered by the Supreme Court in April 2018. In June 2023, Section 232 of the Elections Act was amended to state that, where Articles 62 and 63 of the Constitution fail to include specified durations for disqualifications, the period should not exceed five years. This provision was thus at odds with the Supreme Court's April 2018 ruling.

In January 2024, in a 6-1 decision, the Supreme Court ruled that Article 62 (1) (f) of the Constitution did not specify the duration of the disqualification, nor was it self-executing, insofar as it does not 'provide for the procedure, process and identification of the court of law for making the declaration mentioned in Article 62

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[12] During a rally, Mr Khan had said, brandishing an apparently classified document to support his claim, that the United States had colluded with Pakistan's military to remove him from office. See explainer, up to and including Khan's conviction, at www.aljazeera.com/news/2024/1/30/what-is-the-cypher-case-that-led-to-jail-term-for-pakistans-imran-khan

[13] www.supremecourt.gov.pk/downloads_judgements/crl.p._1276_2023.pdf

[14] www.bbc.com/news/world-asia-68138591

[15] www.reuters.com/world/asia-pacific/pakistan-court-forbids-arrest-ex-pm-nawaz-sharif-his-return-2023-10-19/

[16] www.reuters.com/world/asia-pacific/pakistan-court-overturns-ex-pm-nawaz-sharifs-graft-conviction-lawyer-2023-11-29/

[17] www.reuters.com/world/asia-pacific/pakistan-court-overturns-ex-pm-nawaz-sharifs-last-graft-conviction-2023-12-12/

(1) (f)'. As such, any interpretation of the Constitution that found the ban should be for life was tantamount to 'reading into the Constitution'.[18] In so finding, the Court upheld the validity of the June 2023 provisions in the Elections Act that limited disqualification to five years.

In January 2024, Pakistan's Supreme Court overturned one of its prior judgements, in which it had banned people from political participation for life if they had violated a constitutional provision that requires lawmakers to have an upright moral character. The Court held that its earlier judgement 'abridges the fundamental right of citizens to contest elections and vote for a candidate of their choice'.[19] Its new decision removed an existing legal impediment for Nawaz Sharif to contest the 2024 election.

Political violence, security issues and terrorism

Political violence is common in Pakistan during election periods.[20] Tensions between the parties are exacerbated by tensions between the provinces and the federal government; some parties have been accused of favouritism towards some provinces and territories at the expense of others.

Pakistan continues to face significant security challenges along and within its borders. While the security environment has improved significantly from its nadir in 2012, when there were 3,900 terrorist incidents, such incidents have increased year upon year since 2018, with the total number of incidents in 2023 reaching 920, about three times as many as in 2018.[21] According to the 2023 Global Terrorism Index, which used a data cut-off point of December 2022, Pakistan is ranked number six (up three places since 2022), with its neighbour Afghanistan ranked first.

The Taliban's return to power in 2021 in Afghanistan exacerbated Pakistan's security challenges, leading to a resurgence of Tehreek-e-Taliban Pakistan (TTP). In the aftermath of the government's drive to deport Afghanis from Pakistan in November 2023, caretaker Prime Minister Anwaar-ul-Haq Kakar stated that, since the establishment of the interim Afghan government, there had been a 60 per cent increase in terror incidents and a 500 per cent rise in suicide attacks in Pakistan.[22] He noted that, in the previous two years, 2,267 citizens' lives had been lost in these attacks.[23]

The majority of attacks have occurred in the northern and western regions of Pakistan, specifically in KP, including its capital Peshawar, and Balochistan and its capital Quetta. Data from the Islamabad-based think-tank the Pakistan Institute for Conflict and Security Studies revealed a total of 63 militant attacks in November 2023, resulting in 83 fatalities, with KP enduring 51 attacks and Balochistan 9.[24] While the threat of violence is greater in these two provinces, attacks also occur elsewhere. The TTP undertook a suicide bombing in Islamabad in December 2022.

In mid-January 2024, Iran launched airstrikes in Pakistan. The country claimed to be targeting what it said were bases for a Sunni militant group. Pakistan called the attack an 'unprovoked violation' of its airspace and retaliated two days later.

A number of fatal attacks were reported in the days leading up to the elections. A PTI-affiliated independent candidate, Rehan Zeb Khan, was killed on 31 January. He was shot in what was reported as a targeted killing when gunmen opened fire on his car in a market in his province. Consequently, the ECP postponed the elections in his constituency, NA-8. Rehan Zeb Khan's killing followed the fatal shooting of another candidate, Malik Kaleem Ullah, an independent candidate for a Provincial Assembly seat.

A week before the elections, the residences and offices of several candidates from the PPP and the election office of PML-N in Balochistan were attacked. At least 15 people in total were injured.

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[18] www.supremecourt.gov.pk/downloads_judgements/c.a._982_2018_08012024.pdf

[19] www.aljazeera.com/news/2024/1/9/has-pakistans-top-court-cleared-former-pm-sharifs-way-back-to-power

[20] According to the Armed Conflict Location and Event Data (ACLED) project, there were more than 18,000 incidents of political violence between 1 January 2010 and 8 February 2024. See https://acleddata.com/asia-pacific/ (accessed 27 February 2024).

[21] www.satp.org/datasheet-terrorist-attack/incidents-data/pakistan

[22] www.dawn.com/news/1787503/terror-incidents-increased-since-afghan-interim-govt-came-to-power-in-2021-pm-kakar

[23] Ibid.

[24] www.dawn.com/news/1787127

On 7 February 2024, on the eve of the general elections, two blasts took place near electoral candidates' offices in Balochistan. These reportedly killed over 20 people.

Governance challenges

According to Transparency International's most recently published Corruption Perceptions Index, released in January 2024, which ranks 180 countries and territories around the world by their perceived levels of public sector corruption, Pakistan ranks in 133rd place. This is up seven places from the previous year.[25]

According to the World Bank Government Effectiveness rankings in 2022, Pakistan was reported at 29.25 per cent in terms of percentile.[26] These rankings capture perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies. Pakistan is ranked 108th among 190 economies on ease of doing business, according to the latest World Bank annual ratings in 2022.[27]

Political economy

Pakistan's annual economic growth, which averaged 4–6 per cent during the 2010s, dipped to negative 0.5 per cent in 2020. Its reasonably robust post-pandemic recovery halted in FY 2023, leading to a 0.6 per cent contraction in real gross domestic product after growth in the previous two years. Inflation reached 29 per cent in November 2023, as a result of increasing energy prices and continued currency depreciation.

Since its independence in 1947, Pakistan has participated in 23 International Monetary Fund (IMF) programmes. As the 23rd programme came to an end, the IMF Board approved a Stand-By Arrangement in July 2023 providing external financing (an additional US$3 billion). In January 2024, the State Bank of Pakistan received the second tranche, worth $700 million, from the IMF under the existing $3 billion bailout package.[28] However, foreign exchange remains low, with Pakistan in FY 2023 often failing to have sufficient import cover beyond one month.

Pakistan and the Commonwealth

Pakistan was one of the eight founding members of the Commonwealth. It left in 1972, when other member countries recognised Bangladesh, and returned after the democratic elections of 1989. Following the coup by General Musharraf in October 1999, Pakistan was suspended from the Commonwealth. This suspension was lifted in May 2004 but reimposed in November 2007 pending the restoration of democracy and the rule of law.[29] Following Pakistan's elections in February 2008, it was agreed that Pakistan had taken positive steps in accordance with Commonwealth values, and it was accordingly decided to restore Pakistan to the Commonwealth.

The Commonwealth has deployed several observer missions for previous elections in Pakistan, including in the 2013 and 2018 general elections. Pakistan maintains active engagement with the Commonwealth in advancing co-operation with member countries on issues of peace and security, climate change, youth participation, trade and investment. Pakistan is a member of the Physical and Digital Connectivity clusters of the Commonwealth Connectivity Agenda. Pakistan is also a member of the Mangrove Ecosystems and Livelihoods Action Group of the Commonwealth Blue Charter. In September 2023, Pakistan chaired the Commonwealth Youth Ministers Meeting.

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[25] www.transparency.org/en/cpi/2023/index/pak

[26] https://tradingeconomics.com/pakistan/government-effectiveness-percentile-rank-wb-data.html

[27] https://tradingeconomics.com/pakistan/ease-of-doing-business

[28] www.siasat.com/cash-strapped-pakistan-receives-700m-tranche-from-imf-2958659/

[29] www.commonwealthofnations.org/commonwealth/commonwealth-membership/withdrawals-and-suspension/

3. Legal Framework and Election Administration

System of government

The Government of Pakistan is a bicameral parliamentary system that consists of the National Assembly and the Senate. Both houses of parliament work together to enact legislation, scrutinise government actions and represent the interests of the people and regions of Pakistan. The bicameral system is designed to provide checks and balances, ensuring government decisions are made through a process of deliberation and debate.

National Assembly and Senate

There is a National Assembly consisting of 336 members, of whom 266 are directly elected. Section 51 of the Constitution provides for reserved seats: 60 for women and 10 for non-Muslims. These are filled through indirect proportional representation. Prior to an election, political parties must submit lists of women and non-Muslims to the ECP. The seats are then filled following the election, allocated according to the total number of general seats won by each party.

To elect the National Assembly, the country is divided into single-member constituencies. Constituencies are established in each area based on population size. Members are elected by direct vote through a first-past-the-post system. Following a boundary delimitation exercise (described later), the total number of constituencies has been reduced from 272 to 266. The 12 seats previously allocated to the Federally Administered Tribal Areas (FATA) were dissolved, and 6 seats were reallocated to KP based on population. FATA's National Assembly seats expired in 2023 when the FATA region merged with KP, in accordance with the 25th Amendment to the Constitution, which was passed in 2018.

Unlike the National Assembly, the Senate is a continuing chamber and hence not subject to dissolution. Senators sit for terms of six years, with half up for election every three years. Until recently, the Senate consisted of 104 seats, with 4 representing the federal capital and another 4 representing minorities in each of the 4 provinces. In previous electoral cycles, eight senators were elected to represent FATA. With the passing of the 25th Amendment, these seats were dissolved; four were retired prior to the 8 February elections and the remaining four were retired in 2024 following the election of the Senate. This brought the total number of senators to 96.[30]

The Senate of Pakistan gives equal representation to all the provinces. Since the membership of the National Assembly is based on the population of each province, equal provincial membership in the Senate balances the provincial inequality in the National Assembly.

President

Article 41 of the Constitution stipulates that the President is Head of State – a role that is largely ceremonial. The President must be at least 45 years old and qualified to be elected as a member of the National Assembly.

The President is elected indirectly by the National Assembly of Pakistan for a term of five years, with the election conducted by the ECP. The President has no direct authority in running the government but can grant pardons and reprieves. The President also appoints higher commands in the military with support from the Prime Minister. The President confirms judicial appointments in the national court system, and also appoints the Attorney-General.[31] Lastly, the President has the authority to call parliament into session as well as to prorogue parliament, including following a vote of no confidence in the Prime Minister.[32]

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[30] Article 59, Constitution of Pakistan.

Prime Minister

The Prime Minister is the Head of Government and is National Command Authority over nuclear arsenals. The Prime Minister oversees the operations of ministries, civil servants and government agencies, and has powers to appoint government ministers. The Prime Minister is appointed by a majority of members of the National Assembly.[33]

International standards, commitments and instruments

Pakistan has committed to several regional and international conventions and instruments relating to democracy, human rights and the conduct of elections, including:

- The Universal Declaration of Human Rights (UDHR) (1948)
- The International Covenant on Civil and Political Rights (ICCPR) (1966)
- The Convention on the Elimination of All Forms of Racial Discrimination (1969)
- The Convention on the Elimination of All Forms of Discrimination Against Women (1979) (CEDAW)
- The Convention on the Rights of Persons with Disabilities (CRPD) (2006)
- The South Asian Association for Regional Cooperation Charter on Democracy (2009)
- The Port of Spain Affirmation of Commonwealth Values and Principles (2009)
- The Commonwealth Charter (2012)

Chapters 4, 5 and 6 address the application of and compliance with these international standards to which Pakistan has committed, particularly regarding the ICCPR, CEDAW and the CRPD.

Laws and standards regulating elections

The key laws governing the conduct of elections are the Constitution of Pakistan, the Elections Act 2017 as amended and the Election Rules 2017.

In addition, and besides case law and subsidiary legislation, the following is a non-exhaustive list of domestic laws that are relevant to the conduct of elections:

- Pakistan Penal Code 1860
- Code of Criminal Procedure 1898
- Official Secrets Act 1923
- Prevention of Corruption Act 1947
- Pakistan Army Act 1952
- Public Order (Meetings) Ordinance 1958
- National and Provincial Assemblies (Elections to Reserved Seats) Act 1976
- National Accountability Ordinance 1999
- National Database and Registration Authority (NADRA) Ordinance 2000

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[31] Article 100 (1) of the Constitution.

[32] Article 58 (1-2) of the Constitution.

[33] Article 91 (4) of the Constitution.

- Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance 2002
- Public Procurement Regulatory Authority Ordinance 2002
- Contempt of Court Ordinance 2003
- Prevention of Electronic Crimes Act (PECA) 2016
- Right of Access to Information (RTI) Act 2017
- ICT Rights of Persons with Disability Act 2020
- Protection of Journalists and Media Professionals Act 2021
- National Accountability (Amendment) Ordinance 2023
- Supreme Court (Practice and Procedure) Act 2023
- Supreme Court (Review of Judgements and Orders) Act 2023

Election Commission of Pakistan

The ECP is the constitutional authority in charge of planning, holding and supervising elections in Pakistan. Article 218 of the Constitution provides for the establishment of the ECP. Article 218 provides that the ECP shall consist of the Chief Election Commissioner (CEC) and four members, each of whom must have been a high court judge. There is one election commissioner from each province.

Article 213 of the Constitution provides that the CEC is appointed by the President and must be no more than 65 years of age and a former judge of the Supreme Court or a high court. The CEC holds office for a five-year term. The appointment of members is made after recommendation of names by a joint Parliamentary Committee. Members must also have been former high court judges and be no more than 65 years of age.

Article 218 (3) of the Constitution further provides that it is the duty of the ECP to organise and conduct the election and to make arrangements as necessary to ensure the election is conducted 'honestly, justly, fairly and in accordance with the law, and that corrupt practices are guarded against'.

Article 219 of the Constitution states that the ECP has responsibility for:

1. Preparing electoral rolls for elections to the National Assembly, Provincial Assemblies and local governments, and revising such rolls periodically to keep them up to date;
2. Organising and conducting elections to the Senate or filling casual vacancies in a house or a Provincial Assembly;
3. Appointing pre-election appellate tribunals and post-election election tribunals;
4. Result declaration;
5. Holding general elections to the National Assembly, Provincial Assemblies and local governments.

More detailed responsibilities are laid out in Section 14 of the Elections Act, and include boundary delimitation, the appointment of election officials, the recruitment and training of the temporary workforce, the identification of polling stations and voter education.

The Elections Act gives the ECP extensive powers. Section 4 provides that:

> *(1) The Commission shall have the power to issue such directions or orders as may be necessary for the performance of its functions and duties, including an order for doing complete justice in any matter pending before it and an order for the purpose of securing the attendance of any person or the discovery or production of any document.*
> *(2) Any such direction or order shall be enforceable throughout Pakistan and shall be executed as if it had been issued by the High Court.*
> *(3) Anything required to be done for carrying out the purposes of this Act, for which no provision or no sufficient provision exists, shall be done by such authority and in such manner as the Commission may direct.*

Funding

The ECP's funding structure is provided for in Section 11 of the Elections Act and Article 81 of the Constitution. In accordance with Article 81 of the Constitution and Section 11 of the Elections Act, the Pakistani federal and provincial governments supply most of the financing for the ECP with respect to ECP staff salaries and benefits, administrative charges, office rent, utilities, transportation and other daily expenses through their core budgets.

The funding for the administration of the elections themselves, however, is provided by the Ministry of Finance on an *ad hoc* basis following the submission of budgets by the ECP. These funds are disbursed from the Consolidated Fund. In July 2023, the Ministry's Economic Coordination Committee announced it would provide the ECP with R42.5 billion, with an initial instalment of R10 billion.[34] The Ministry did not make its second disbursement until early December 2023, just two months before the election, and the instalment was for R17.4 billion, bringing the total to R27.4 billion, or around 65 per cent of the amount initially promised.[35]

The Group understands that both the timing and the size of these disbursements placed additional pressures on the ECP. The Group regards the late disbursement of funds to be an unnecessary and avoidable obstacle to the smooth administration of the election, and recommends an amendment to the Elections Act and any other relevant law to provide for consistent and timely funding in line with the ECP's budgets.

Recommendation:

- The Elections Act, and any other relevant law, should be amended to ensure the ECP's budget for the administration of elections is disbursed annually or at regular and predictable intervals so as to enhance the ECP's ability to plan and administer elections. The funding should be commensurate with the ECP's requirements for administering elections, and should align with the ECP's budget so far as is possible. In the interests of transparency, reasons should be provided for any significant divergence between the ECP's budget and the funds disbursed by the Ministry.

Although there is no legal provision in the Act relating to additional funding, the Group understands that grants for certain electoral projects or initiatives may be given to the ECP by foreign countries, multilateral organisations and international donor agencies. Typically, these grants are targeted towards voter education campaigns, training for election officials, providing supplies and equipment for elections and implementing electoral reforms. The ECP may also receive technical support from international donors and development partners.

Recommendation:

- The Elections Act should be amended to incorporate the possibility of the ECP receiving external financial resources and technical assistance in order to augment and complement national funding.

Census, delimitation and the timing of the general elections

After the decision in January 2022 to conduct a fresh census, the series of events that followed had significant constitutional, political and administrative consequences for the holding of the 2024 general elections. Both the law and the chronology of events are worth setting out in detail.

Article 224 of the Constitution states:

> *A general election to the National Assembly or a provincial assembly shall be held within a period of 60 days immediately following the day on which the term of the Assembly is due to expire unless the Assembly has been sooner dissolved.*

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[34] www.brecorder.com/news/40253680

[35] https://tribune.com.pk/story/2448999/finance-ministry-disburses-rs174b-to-ecp-for-general-elections

The National Assembly was dissolved on 9 August 2023 and a caretaker government took over with responsibility for running the country.[36] A caretaker government in Pakistan is an interim government established in the period between the dissolution of the National Assembly or Provincial Assembly and the establishment of a fresh government. Section 230 of the Elections Act states that a key function of a caretaker government is to assist the ECP to hold elections.

According to Article 224 (2) of the Constitution, an election should have taken place within 90 days of the parliament's dissolution. However, the Elections Act provides at Section 17 (2) that the ECP must conduct a boundary delimitation exercise after every census. The responsibility for conducting a census lies with the Pakistan Bureau of Statistics (PBS), which is empowered to do so at a time of its choosing.[37] Following the controversy with regard to the results of the 2017 census, in which Sindh and Karachi parliamentarians claimed the province was undercounted, the Group understands there was broad agreement that there should be a fresh census prior to the next election (despite the typical gap between censuses being 10 years) and that a delimitation process should follow thereafter. The last delimitation exercise had taken place in mid-2022. For the most recent census, PBS co-operated with the National Database and Registration Authority (NADRA) in order to conduct the country's first 'digital census'.

PBS had initially planned to conduct the census as early as 1 October 2021, having agreed to undertake the task under the PTI administration. However, the timetable was beset by repeated delays, including procurement delays and the vote of no confidence in April 2022, as well as Pakistan's devastating floods later that year. PBS finally conducted the multi-phased census between 20 February and 22 May 2023. Initial results showed a total population of 250 million, although this was later reduced to 241 million.

On 5 August 2023, the Council of Common Interests unanimously approved the census results, and notification of the publication of results was gazetted on 7 August,[38] thereby triggering a boundary delimitation process in accordance with the Elections Act. In order to underscore the facts of the matter, the ECP, by Order No. F. 9 (1)/2023-Elec-1, published on 17 August 2023, reviewed the Constitution, the Elections Act and Orders of the Supreme Court in various cases and decided:

> *that carrying out fresh delimitation of constituencies on the basis of last preceding census officially published in 2023 is mandatory requirement of law as contained in section 17(2) of the Elections Act, 2017, before the ensuing General election to ensure the fulfilment of duty under Article 218(3) of the Constitution and for the true representation to the electorate, political parties and contesting candidates to protect their fundamental rights as guaranteed under Article 17(2) of the Constitution so that the elections are conducted 'honestly, justly and fairly'.*[39]

On 13 September 2023, President Alvi stated that elections should be held on 6 November, in accordance with the constitutional requirement that an election be held within 90 days of the early dissolution of the National Assembly. However, the legal requirement to administer a delimitation exercise rendered the 90-day timeframe almost impossible. In addition, questions were raised as to who had legal authority to decide the election date.

On 2 November 2023, the Supreme Court ordered the CEC and President to meet to agree on a date. Facing additional pressure from political parties to expedite the process, the ECP agreed with the President to bring forward its timeframe to complete the delimitation exercise between 14 December and 30 November and fixed 8 February 2024 as the date for the election – still outside the mandated timeframe but nonetheless at a significantly more compressed timeframe than the ECP would typically prefer.[40] In responding to the issue of timing, the ECP sought recourse in Article 254 of the Constitution, which states:

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[36] www.aljazeera.com/news/2023/8/15/pakistans-caretaker-pm-challenges-lie-ahead

[37] General Statistics (Reorganization) Act 2011 (as amended).

[38] www.pbs.gov.pk/sites/default/files/population/2023/Gazette%20Notification%20of%20Census-2023%20(07.08.2023).pdf. Despite the official announcement of the publication of census results, only preliminary results were released. Full, official results had still not been published months after – that is, long after the ECP had completed its delimitation exercise.

[39] https://ecp.gov.pk/storage/uploads/zwu7dbmBlG9D6DMj6Gjo3xtsKbMjz0W7WKKjTIKd.pdf

> *When any act or thing is required by the Constitution to be done within a particular period and it is not done within that period, the doing of the act or thing shall not be invalid or otherwise ineffective by reason only that it was not done within that period.*

Analysis of the census and boundary delimitation

The Group notes the concerns of various stakeholders regarding the census, which in turn affected the delimitation of constituencies. In the first instance, the fieldwork completion deadline was extended an unprecedented eight times owing to the results after each successive deadline seeming to indicate significant undercounting. The Pakistan Institute of Legislative Development and Transparency (PILDAT) noted that the national population count increased by 22 per cent between 1 April and 30 April, with the population count for Karachi increasing by some 51 per cent during the same period.[41] This was especially significant considering it was the concerns of Sindh political parties regarding an undercount in the 2017 census that had resulted in the decision to hold a new census.

Stakeholders reported other discrepancies. As noted above, the initial results of the census showed a total population just shy of 250 million, yet PBS' final count showed a 9 million reduction, to 241 million, with 7 million of these 9 million having been removed from the population of Balochistan (which went from 21.7 million to 14.89 million).[42] Speaking at a Supreme Court appeal against Balochistan High Court's decision to dismiss a petition relating to the final census results, Senior Counsel and Senator, Jamiat Ulema-e-Islam Pakistan (JUI-P), Kamran Murtaza stated that former Balochistan Chief Minister Mir Abdu Qudoos Bizenjo had been 'forced' to approve the 2023 national census results. Were the population of Balochistan not to have been reduced by 7 million, he averred, the province would have received an additional 10 National Assembly seats (the Group estimates this may have been closer to 8).

It is difficult to establish whether valid reasons exist for the reduction in the count, since complete results of the census, as approved by the Council of Common Interest in August 2023, were not, to the best of the Group's knowledge, released prior to the election, nor is the Group aware of a fulsome explanation by PBS as to the reasons for the reduction in this province. The lack of information raises concerns regarding the transparency of the process, particularly in relation to the significant reductions in the count.

Recommendation:

- In order to increase transparency and foster trust in the process, PBS should ensure timely release of the full census results after each census, and should ensure full explanations are provided for any significant changes to population counts between the publication of preliminary and final figures.

Importantly, the ECP's boundary delimitation exercise was limited in scope. With the exception of those that were affected by the 25th Amendment to the Constitution, the ECP was unable to change the total number of constituencies in the country, as this would have required a constitutional amendment – an impossibility under a caretaker government. As such, the ECP's exercise was limited to delimiting the constituency boundaries while keeping the total number of constituencies the same.

The Group notes that the total seats apportioned to each province appeared to be in line with the results of the seventh national population census. Additionally, for the National Assembly, the seat quota for the 4 provinces ranged from 905,505 to 930,900, thus appearing to comply with legal provisions. ICT was a statistical outlier, at 787,954.

Prior to August 2023, the Elections Act had stipulated that delimited constituencies should maintain the geographical and administrative unity of the district. In August 2023, Section 20 (3) was amended to include a new proviso that the ECP 'in exceptional circumstances' does not need to strictly adhere to the existing district boundaries if doing so causes the variance in the total population of a constituency versus the seat quota to surpass 10 per cent.

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[40] www.deccanherald.com/world/pakistan-election-commission-to-complete-delimitation-process-by-30-november-for-early-polls-2669503

[41] www.dawn.com/news/1751369/another-controversial-census

[42] https://pildat.org/inter-institutional-relations/update-on-the-performance-of-democratic-institutions-november-2023

In its September 2023 analysis of the ECP's preliminary delimitation report, FAFEN stated that 83 National Assembly constituencies had population sizes beyond the 10 per cent variance from the seat quota. The ECP later stated that this figure was 64 rather than 83. Although the ECP confirmed it had grouped a number of districts together in order to rationalise constituency delimitation, FAFEN suggested it had made use of the proviso in Section 20 (3) on only 11 occasions.[43]

According to the preliminary delimitation report, the resulting variances in population size between constituencies was far beyond the 10 per cent limit, with the largest (NA-39) standing at 1,357,890 and the smallest (NA-1) standing at 515,935.[44] Variances beyond the 10 per cent limit were identified within each of the four provinces.

The ECP stated that it had received a total of 1,327 representations for adjustments to be made to constituency delimitations, and that 'in light of corrections, orders were made', although it is unclear how many orders were issued or how many constituencies were affected.

The Group notes that there exists a degree of tension between the need to ensure the equality of the vote via adherence to the 10 per cent variance rule and the limitation placed on the ECP in Section 20 (3) of the Elections Act by the inclusion of the words 'in exceptional circumstances'. While the inclusion of the proviso was a valuable amendment that afforded the Boundary Commission greater flexibility than before, the Commission may have had some hesitancy in leaning on this proviso in the roughly 25 per cent of constituencies in which the variance went beyond 10 per cent, as to do so may have strayed beyond the common understanding of the words 'exceptional circumstances'. It is likely that the only solution is to hold a full boundary delimitation exercise that is able to make recommendations up to and including a constitutional amendment on the total number and provincial allocation of constituencies.

The Group appreciates the exceptionally challenging circumstances confronting the ECP as it sought to undertake this delimitation exercise within a very short timeframe, and commends all staff for their significant efforts in this regard. The Group makes a number of recommendations that may benefit the ECP for future exercises.

Recommendations:

- Where a constituency population goes beyond the 10 per cent variance, or otherwise falls outside of any other legal provision or principle for delimitation, the ECP should publish reasons thereof for each constituency.
- In order to facilitate the process for submitting representations on the preliminary delimitation report, the ECP should consider allowing such representations to be heard at the district or, at least, the provincial level.
- The ECP should publish information on the total number of delimitation representations acted on.
- In order to enhance the equality of the vote, the ECP should consider undertaking a boundary delimitation exercise in advance of the next general election in order to limit the number of constituencies that fall beyond the 10 per cent variance.

Reporting

In pursuance of Section 16 of the Elections Act, the ECP is required to publish its Annual Report within 90 days of the end of every calendar year and submit it to the federal government and each provincial government, which, within 60 days of receipt, must lay it before each house of the parliament and Provincial Assemblies.

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[43] https://fafen.org/draft-delimitation-constituencies-exceed-population-variation/

[44] Ibid.

Section 16 (3) requires that the ECP, after the annual report is laid in front of the two houses, publish the annual report on its website.

Code of Conduct

The Code of Conduct for Political Parties, Contesting Candidates and Election Agents governs the conduct of political parties as it pertains to campaigning, publicity, meetings and general conduct.[45] The ECP issued the Code of Conduct in December 2023, in accordance with Section 233 of the Elections Act, which states:

> *233. Code of Conduct.*
> *(1) The Commission shall, in consultation with political parties, frame a Code of Conduct for political parties, contesting candidates, election agents and polling agents.*
> *(2) The Commission shall also frame a Code of Conduct for security personnel, media, and election observers.*
> *(3) A political party, a candidate, an election agent, a polling agent, security personnel, media and an observer shall follow the Code of Conduct during an election*

On 11 October 2023, the ECP held a consultation meeting with the major political parties to draft the Code of Conduct. Subsequently, in pursuance of Article 218 (3) of the Constitution, read with Section 233 of the Elections Act, the ECP published the Code of Conduct for the 2024 general elections on 20 December 2023, five days after the commencement of the official campaign period. While the Group commends the ECP for consulting with political parties, some stakeholders questioned the reason for the two-month delay between the ECP's consultations with political parties and the publication of the final Code of Conduct and suggested that such a delay was unhelpful.

Implementation of the Code of Conduct is monitored by District Returning Officers (DROs), Returning Officers (ROs), District Monitoring Officers (DMOs) through district and local administrations, district police or other law enforcement agencies.

The Code of Conduct contains a number of critical provisions. It expressly provides at Section A (2) that:

> *Political parties… shall not propagate any opinion, or act in any manner prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or morality or public order, or the integrity or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan.*

Clause 54 states:

> *Monitoring Teams of the Election Commission shall monitor the entire election campaign of candidates / political parties and violation of any provision of the Act, the Election Rules, 2017 and the Code of Conduct shall be reported by the Monitoring Team to the officer nominated by the Election Commission for the purpose who shall decide the matter in accordance with the provisions of Section 234 of the Act.*

The Code states that its violation shall be 'tantamount to malpractices as per law and rules and shall entail legal action as per law and rules'. Violations of any provision of the Elections Act, the Election Rules or the Code of Conduct must be reported to the ECP, which will decide the matter in accordance with the Elections Act. Clause 55 provides:

> *The violation of code of conduct shall entail punitive action i.e., declaring an election void for corrupt or illegal practices.*

In pursuance of Section 234 of the Act and Rule 171, the ECP recruited and deployed hundreds of monitoring officers to monitor the elections in each province, including 600 in Punjab, 130 in Sindh, 36 in Balochistan and 36 in KP. The ECP issued at least two press releases informing on actions taken against candidates for violations of the Code of Conduct, including fines for erecting prohibited campaign materials along highways.[46] The Group was unable to obtain information on the total number of violations recorded or total number of actions taken.

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[45] https://ecp.gov.pk/storage/files/3/code-of-conduct/Code%20of%20conduct%20for%20political%20parties%20English.pdf

Recommendations:

- Rather than holding a single consultative meeting with political parties on the Code of Conduct, the ECP should consider a series of consultations in order that political parties can provide feedback on revisions of the draft Code prior to its finalisation. This may help achieve greater sensitisation and buy-in. The ECP should also ensure that the Code is published in advance of the commencement of the official campaign period.
- The ECP should follow up on all complaints of breaches of the Code to ensure the Code is respected and followed.
- The ECP should consider publishing a report on violations of the Code, including reports of violations submitted to the ECP and information on actions taken against these reports. In the interests of transparency, the ECP may wish to consider including in the report instances where it chose not to act owing to an allegation lacking merit.

The judicial system

The judiciary of Pakistan is a network of courts and tribunals whose decisions may impact the outcome of elections both directly and indirectly. The Constitution entrusts the superior courts with a duty to preserve, protect and defend the Constitution.

The Supreme Court is the apex court, and exercises original, appellate and advisory jurisdiction. Together with the high courts, the Supreme Court has original jurisdiction for the enforcement of fundamental rights where a question of 'public importance' is involved.[47]

As a member of the Commonwealth, Pakistan subscribes to the fundamental values of the Commonwealth, including the Commonwealth (Latimer House) Principles on the three branches of government.[48] These Principles require the separation of powers between the executive, legislature and judicial branches. Principle I states:

> *Each Commonwealth country's Parliaments, Executives and Judiciaries are the guarantors in their respective spheres of the rule of law.*

Regarding the judiciary, Principle IV states:

> *An independent, impartial, honest and competent judiciary is integral to upholding the rule of law, engendering public confidence and dispensing justice. The function of the judiciary is to interpret and apply national constitutions and legislation, consistent with international human rights conventions and international law, to the extent permitted by the domestic law of each Commonwealth country.*

The Supreme Court of Pakistan is headed by the Chief Justice and so many other judges as mandated by parliament. The Supreme Court (Number of Judges) Act 1997 specifies that the number of judges of the Supreme Court of Pakistan other than the Chief Justice shall be 16.[49] The Chief Justice and the other Supreme Court judges are appointed by the President on the advice of the Judicial Commission of Pakistan.[50] They must have served as high court judges for 5 years or have been an advocate of the high court for 15 years. They hold office until they are aged 65 years, at which point they retire.

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[46] https://ecp.gov.pk/press-release-regarding-violation-of-code-of-conduct-19-1-2024

[47] Article 184 (3) of the Constitution.

[48] www.cpahq.org/media/dhfajkpg/commonwealth-latimer-principles-web-version.pdf

[49] https://senate.gov.pk/uploads/documents/1658382041_202.pdf

[50] Articles 175A (1) and 177 of the Constitution

In April 2023, Parliament passed the Supreme Court (Practice and Procedure) Amendment Act 2023.[51] This specifically impacted the administrative authority of the Chief Justice and his powers relating to the appointment and removal of judges, the exercise of *suo motu* powers and the constitution of benches.[52] The Act brought the practice in the Supreme Court in line with the practice in the lower judiciary, and the Supreme Court upheld the constitutionality of the Act.

In December 2023, the Judicial Commission of Pakistan, which comprises representatives of superior courts, the Attorney-General and bar councils, agreed to amend the selection criteria for the elevation of judges to the Supreme Court and high courts to allow for more transparency and oversight in the judicial appointment process. These amendments responded to growing concerns regarding the mode of appointment, which was previously exclusively controlled by judges, particularly the Chief Justice.[53]

The Group commends both the Amendment Act and the proposal to amend rules regarding the appointment of chief justices.

Independence of the Supreme Court, high courts and special courts

Prior to the election, some stakeholders indicated concerns that the Supreme Court and high courts may sometimes be subjected to external pressure. These stakeholders were of the view that some of the judgments of the Supreme Court were inconsistent in constitutional interpretation and the protection of fundamental rights. In their view, this has affected public perceptions of the independence and impartiality of the judiciary.

The Group has given close consideration to these concerns, and what emerges is a complex and sometimes contradictory picture. In several cases, the Supreme Court and high courts have acted with commendable alacrity and demonstrated a commitment to the rule of law, democracy and human rights, taking decisions that appear to demonstrate either that the courts were not subject to intimidation or, if they were, that they had not succumbed to it. Yet, at other times, the Group notes, a number of court decisions appear to have lacked consistent jurisprudence. It is possible the lack of consistency in some cases may be merely the result of normal or regular differences in legal opinion. Yet, in light of the publication of a letter by six justices of IHC detailing harassment, intimidation and interference (of which more below), the Group cannot but wonder which cases such actions may have impacted. A number of cases are worthy of consideration.

Beginning in October 2022, two cases were brought against Imran Khan in the pre-election period. These were the so-called Toshakhana case, involving allegations of graft, and the cypher case, involving the alleged disclosure of a classified document. A third case, relating to the lawfulness of the marriage between Mr Khan and his third wife, was initiated in November 2023. Within the space of a week in late January and early February 2024, Mr Khan was convicted in all three cases. He was sentenced to 14 years, 10 years and 7 years, respectively, with his wife similarly imprisoned in the Toshakhana and marriage cases.[54]

Importantly, the Supreme Court and IHC made interventions where they felt correct judicial process was not being adhered to, or where they regarded there to be a lack of evidence for the trials to proceed. On 29 August 2023 in the Toshakhana case, an IHC division bench suspended Imran Khan's sentence and ordered his release.[55] On 21 November 2023 in the cypher case, IHC declared the in-camera trial of Mr Khan null and void.[56] A month later, the Supreme Court granted Mr Khan bail on the basis there was no 'incriminating material'. Furthermore, the Court spoke at length about the deleterious consequences on Pakistan's democracy of incarcerating elected politicians under the 'contrive[ed] doctrine of necessity'. The Court ruled that 'their release on bail during the period of elections would ensure "genuine elections" and thus enable the people to exercise the right to express their will effectively and meaningfully'.[57] In the days and weeks that followed, IHC issued a stay order on proceedings, and later declared the court proceedings null and void owing to irregularities with the recording of witness statements.

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[51] https://pakistancode.gov.pk/english/UY2FqaJw1-apaUY2Fqa-apaUY2Npa5pnbQ%3D%3D-sg-jjjjjjjjjjjj

[52] www.dawn.com/news/1780502

[53] www.supremecourt.gov.pk/judicial-commission-of-pakistan-press-release-21-dec-2023/. See also www.dawn.com/news/1830848

[54] These convictions were later overturned months after the election.

[55] www.aljazeera.com/news/2023/8/29/pakistan-court-suspends-imran-khans-conviction-in-big-relief-for-ex-pm

[56] www.dawn.com/news/1791207

The Supreme Court and IHC thus took actions in the pre-election period that appeared to underscore their independence and signal their commitment to the rule of law. However, the special courts have at times adopted judicial proceedings that appear to be, at best, somewhat heavy-handed. For instance, the Group notes with concern that, owing to an absence from the Court of Mr Khan's lawyer for one of the days of the cypher trial, the Court terminated counsel's right to cross-examine witnesses and replaced the counsel with government lawyers. This was a most severe course of action for a relatively minor infraction. Within four or so days of the appointment of government counsel, the case had concluded and Mr Khan was convicted.

The Group's other concern was with the timing of these cases. The suggestion that this trio of convictions of the leader of the largest opposition party, each handed down within days of each other and within days of the election, was the result of the even-handed application of the rule of law is somewhat difficult to accept.

The spectre of interference in judicial proceedings, as well as harassment and intimidation of judges, was brought out into the open shortly after the election. On 25 March 2024, six justices of IHC penned a letter to the Supreme Judicial Council. The 12-page letter made a series of grievous allegations, including intimidation of judges, the abduction and torture of a judge's family member by ISI operatives and surveillance of judges' homes.[58] As a result of this letter, the Chief Justice of the Supreme Court met with the Prime Minister, and subsequently announced a *suo moto* investigation into the contents of the letter.[59]

The Group is immensely concerned by these allegations. There can be no place in any democracy for the intimidation, harassment or abduction of members of the judiciary, or indeed any citizen, by the apparatus of the state. The Group commends the courage of these six judges for writing this letter, and calls upon the Chief Justice and other members of the judiciary to display similar courage in executing their *suo moto* investigation.

Recommendation:

- In order to fully investigate grievous allegations of judicial interference and intimidation of judges, the Supreme Court should ensure its *suo moto* investigation is seen through to completion. The investigation should be thorough and should result in actionable and targeted recommendations, including to the military and security services, aimed at preventing unconstitutional interference in judicial affairs and the democratic life of Pakistan.

Alongside some of the decisions of the Supreme Court and IHC regarding Imran Khan, similar demonstrations of judicial independence appeared to be evident in cases related to election administration and pre-election petitions. Following the ECP's decision not to allocate the bat symbol to PTI, the Peshawar High Court overturned the ECP order. Regardless of the merits of the Court's decision (the bat symbol case is discussed in more detail further down), the decision appeared to be a product of the Court's own reasoning as opposed to any outside pressures.

Consistency of court decisions and application of democratic principles

Separate to, but in parallel with, concerns regarding judicial independence are concerns regarding the consistency of court decisions and the consistent – or otherwise – application of core democratic principles. Beginning with the consistency of court decisions, the Group appreciates that learned justices of the Supreme Court will naturally arrive at differing conclusions from time to time, and that the possibility of justices arriving at differing interpretations serves as the rationale for benches in the first place, such that the weight of legal opinion on any given matter can be established. However, the Group wishes to draw attention to two pre-election cases – one indirectly related to the election and the other directly.

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[57] www.supremecourt.gov.pk/downloads_judgements/crl.p._1276_2023.pdf

[58] www.slideshare.net/slideshow/islamabad-high-court-judges-wrote-a-letter-to-supreme-judicial-councilpdf/266975225

[59] https://thefridaytimes.com/01-Apr-2024/supreme-court-takes-suo-moto-notice-of-letter-by-6-ihc-judges

Following the 9 May 2023 riots, authorities pursued military trials against dozens of protesters, pursuant to Section 59 of the Army Act. In October 2023, the Supreme Court ruled that military trials of civilians were unconstitutional and struck down Section 59 (4) of the Act. Yet, two months later, a larger bench of the Supreme Court heard the appeal lodged by the Ministry of Defence and overturned the previous bench's decision. While appreciating the hierarchical structure and composition of the apex court, the overturning of a decision of one bench by another bench of the same court, particularly within months of one another, is unlikely to instil public confidence in the juridical consistency of the apex court.

In January 2024, the Supreme Court overturned the 2018 Supreme Court ruling on lifetime ban under Article 62 (1) (f) of the Constitution. While the Court's 2024 decision was centred around technical legal points, the Court also stated that a lifetime ban was in contravention of Article 17, which establishes the fundamental right of 'citizens to contest elections and vote for a candidate of their choice'.[60] The Group does not wish to interrogate the arguments advanced in either judgement but wishes to draw attention to the lack of consistency thereof. Importantly, these judgements cannot be divorced from the political context in which they were made. The Court's judgement in 2018 was injurious to former Prime Minister Nawaz Sharif at a time when he was widely regarded as having fallen out with the so-called 'establishment'. Six years later, with the political landscape having shifted substantially, Nawaz Sharif became the most obvious and consequential beneficiary of the Court's *volte-face*.

The Group also notes the inconsistent application of core principles by the Supreme Court. This is evident in the two candidate nomination petitions and the bat symbol petition, the latter case being – along with the revocation of the lifetime ban – among the more significant of the 2024 election.

.**Candidate nomination of Pervez Elahi**

.On 14 January 2024, the Supreme Court considered an appeal by a candidate whose nomination the RO had rejected on 30 December 2023, with the objection upheld by the appellate tribunal and then Lahore High Court on 13 January 2024. The grounds of objection were that the candidate did not have a bank account to record election expenses for each constituency in which they intended to stand and had also not declared an asset. The Supreme Court held that there was no requirement to have a bank account for each constituency, and that the asset was acquired after the relevant date required for assets declaration. In this judgement, the Supreme Court stated that the right to vote freely for the candidate of one's choice was the essence of a democratic society.

.In its judgement, the Supreme Court stated:

> *The legitimacy of a democratic government hinges on its reflection of the people's will, and this is only possible through widespread and inclusive participation of the candidates and voters in the election process… A democratic society committed to fairness must actively combat disenfranchisement, ensuring that all voices are heard and valued in the political arena. Inclusive electoral processes contribute to political stability and social cohesion. This stability is essential for the long-term prosperity and peace of any society.*[61]

.**Candidate nomination of Tahir Sadiq**

.On 26 January 2024, the Supreme Court overruled the rejection of the nomination of Tahir Sadiq on the grounds that he was a 'proclaimed offender' and also of Naz Tahir on the grounds she was the wife of a proclaimed offender. The RO had rejected both nominations on 30 December 2023, the appellate tribunal found the nominations were acceptable on 6 January 2024 and Lahore High Court rejected the nominations on 16 January before the Supreme Court found the nominations should be accepted.

.In its judgement, the Supreme Court stated:

> *.Elections stand as a manifestation of the collective will of a nation, reflecting the diverse voices and choices of its citizens. In this democratic process, individuals exercise their right to vote, contributing to the formation of a representative government. The rights involved are not only of those participating in*

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[60] www.supremecourt.gov.pk/downloads_judgements/c.a._982_2018_19022024.pdf

[61] www.supremecourt.gov.pk/downloads_judgements/c.p._181_2024_n.pdf

> *the elections but also of the public. The courts, in their role as guardians of democracy and fundamental rights, should approach electoral matters with circumspection, ensuring that their interventions uphold the democratic principles upon which the nation thrives and the fundamental rights of citizens to contest elections and vote for candidates of their choice.*[62]

The Group notes the inclusive and permissive language used in the Pervez Elahi and Tahir Sadiq judgements to enable candidates to stand in the elections. The core principle extolled by the Supreme Court in these two cases, as well as the lifetime ban case, was the need to take pro-enfranchisement or pro-candidate decisions where possible in order to maximise the choice available to voters at the ballot box. This is a principle the Group endorses.

However, the Supreme Court appeared to depart from this principle in dispensing its decision regarding one of the most consequential cases in the elections: the bat symbol case. Given the significance of this case for the elections, the facts are worth setting out in some detail:

Non-allocation of the bat symbol to PTI

With the five-year term of office for PTI office-bearers due to elapse on 13 June 2021, the ECP issued a notice in May 2021 to PTI informing the party of the need to hold fresh elections. A one-year extension was granted to PTI owing to the difficulties of administering elections during the pandemic. On 13 June 2022, the ECP received a letter from PTI informing on the results of the election. The ECP responded that PTI had failed to provide all the necessary information as per Sections 201, 208 and 209 of the Elections Act. What followed, with growing confusion and frustration on both sides, was a protracted back-and-forth between PTI and the ECP over several months regarding the accuracy and completeness of PTI's paperwork.

In August 2023, the ECP warned PTI that it needed to respond to the ECP's notices in full, and on 23 November 2023 issued a final order instructing PTI to hold fresh elections within 20 days in order for the party to be allocated a symbol. PTI subsequently informed the ECP that it held elections on 6 December 2023. On 14 December, the Political Finance Wing of the ECP issued a lengthy questionnaire to PTI on matters pertaining to its constitution and the party's apparent failure to adhere to numerous provisions of the Elections Act and Rules.[63] On 22 December, the ECP again found fault with PTI's submissions in respect of its re-held elections, this time because the elections had been conducted by an individual the ECP regarded as ineligible to undertake the task. The ECP therefore decided not to allocate the bat symbol to PTI.[64] The ECP listed PTI candidates as independents on Form 33, thus essentially preventing PTI from contesting the election as a political party.

PTI appealed to Peshawar High Court, which on 9 January 2024 overturned the ECP's order, stating that, while Section 215 of the Elections Act conferred the ECP with the authority to find a party ineligible for the allocation of a symbol, the grounds for ineligibility do not extend to the ECP's own determination as to the validity of intra-party elections in accordance with a party's constitution. The Peshawar High Court found that the decision of the ECP was 'backed by no legal provision either under the Act or under the Constitution. Therefore, the same is illegal.'[65]

On 8 January, the Supreme Court overturned the decision of the Peshawar High Court. While noting that the ECP should not 'concern itself with minor irregularities in the holding of a political party's elections', it found that no such election had even taken place on 2 December – a finding that appears to go beyond even the ECP's position that the election had been conducted, albeit irregularly.[66]

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[62] www.supremecourt.gov.pk/downloads_judgements/c.p._150_2024_3012024.pdf

[63] See Annex A: https://ecp.gov.pk/storage/files/2/law%20wing/1.Order%20dated%2018-19.12.2023%20regarding%20Conduct%20of%20Intra%20Party%20Election%20of%20Political%20Party%20Namely%20Pakistan%20Tehreek-e-Insaf.pdf

[64] https://ecp.gov.pk/orders/order-regarding-pti-intra-party-election-and-ineligibility-to-obtain-symbol-bat-22-12-2023

[65] PTI vs ECP, PHC WP No. 6173-P/2023.

[66] Supreme Court, Civil Petition No. 42/2024 (On appeal against the judgement dated 10.01.2024 passed by Peshawar High Court, Peshawar, in WP No. 6173-P/2023).

The consequences of the intra-party election Order were two-fold. First, the affected party's candidates had to run as independents with new symbols not known to voters. The Group considers that this could have impacted some voters, especially illiterate voters, who were unfamiliar with the new symbol allocated to the candidate of their favoured party. Second, the candidates elected as independents were unable to avail of their share of the reserved seats to which their proportion of the total votes cast would otherwise have entitled them, unless they joined a party within 72 hours of the declaration of results by the ECP. This issue is dealt with substantively further down this chapter.

The Group has a number of concerns regarding the foregoing. In the first instance, while the Group fully appreciates that the ECP and the January 2024 Supreme Court ruling identified legitimate concerns regarding the intra-party election process, the Group is concerned about the severity of the sanction as contained in Section 215 (5) of the Elections Act. The Group queries whether the consequences of non-compliance with laws relating to intra-party elections should be more proportionate bearing in mind the vitality of political parties participating in a democratic process. The Group is concerned that a major political party was excluded from elections on technical grounds. Moreover, the inability of PTI to benefit from the allocation of reserved seats (until later reversed by the Supreme Court in July 2024) represented, in effect, a second significant punishment for the same offence.

The Group is aware that some stakeholders and political parties believe the ECP inconsistently applied legal provisions regarding party registration and symbol allocation. This view may not be quite accurate. It should be noted that the ECP first approached PTI regarding the need for it to hold intra-party elections in May 2021, while PTI was still in government. The disagreement between the ECP and PTI therefore dated back to three years prior to the elections.

Second, each party's case has particular nuances that justifiably result in different treatment by the ECP. The Group notes that the ECP did, by contrast, allocate the lantern symbol to the Awami National Party (ANP), despite the party failing to hold intra-party elections.[67] However, this was not without significant hesitation on the part of the ECP, which had appeared to hint, in its reserved verdict on 21 December, that the ANP would not be allocated a symbol. It appears the ECP provided clemency at the final hour, which may reflect a Commission that was, on that occasion, desirous of expanding the options available to voters. It should also be noted that, while the ANP's delay in holding elections was a not insignificant eight months, this timeline was significantly shorter than the May 2021 timeline in the case of PTI.

Third, the ECP did delist 13 political parties in January 2024 – an action that goes further than non-allocation of a party symbol.[68]

Yet, the Group returns to the point raised above, which is that of proportionality and impact. While the law should be applied equally to all parties regardless of size, it cannot go ignored that the ANP had won just one National Assembly seat in the 2018 elections. In addition, the Group understands that none of the 13 parties delisted by the ECP had won a single seat in the 2018 elections.[69] Indeed, it appears probable that a degree of inactivity within some of these parties may have contributed to the ECP's reasons for delisting them. By contrast, PTI was one of the largest parties in Pakistan, with millions of supporters, thus the right to vote for a party of their choice was denied to a very large part of the electorate.

The Group considers the Vienna Commission Guidelines on Political Party Regulation, which include the following extracts:

> *c) Sanctions Against Political Parties for Non-compliance with Law*
> *224. Sanctions should be applied to political parties found in violation of relevant laws. Sanctions at all times must be objective, enforceable, effective and proportionate to their specific purpose.*

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[67] www.dawn.com/news/1805671

[68] Ibid.

[69] The delisted parties were the All-Pakistan Minority Alliance, All-Pakistan Tehreek, Awami National Party, Bahawalpur National Awami Party, Sab Ka Pakistan, National Peace Council Party, Pakistan National Muslim League, Pakistan Aman Party, Pakistan Brabri Party, Masihi Awami Party, Pakistan Qaumi Yekjehti Party, Sunni Tehreek and Nizam-e-Mustafa Party.

> *225. There should be a variety of sanctions for non-compliance with laws. As noted above, sanctions must bear a relationship to the violation and respect the principle of proportionality.*
> *227. Sanctions should always be compatible with the principle of proportionality. Prior to the enactment of any sanction, the regulatory authority should carefully consider the sanction's aim against a possible detrimental effect to political pluralism or the enjoyment of protected rights.*[70]

Additionally, the Group is concerned that the Elections Act may lack clarity regarding the effects of non-allocation of a party symbol on the status of a political party and its candidates. The Supreme Court's July 2024 ruling, discussed in more depth below, found that the ECP's decision to treat as independents those candidates who would have stood as PTI candidates was not provided for in law.[71]

Lastly, as far as the Supreme Court's decision is concerned, its non-adherence to the principle of maximising the choice available to voters in its January 2024 decision stood in stark contrast with its approach in the earlier candidate nomination disputes of Pervez Elahi and Tahir Sadiq. This decision was all the more significant given that it impacted not just a single candidate but all candidates of one of the largest parties in Pakistan, whose supporters numbered in the tens of millions.

This lack of jurisprudential consistency also potentially had downstream consequences, some of which may have come full circle and impacted the Supreme Court itself. As is discussed further down in this chapter, inconsistencies in RO decisions regarding candidate nominations later resulted in appeals reaching the Supreme Court, which took up the latter's time and resources. The quantity of such cases could in theory be reduced via additional training of ROs, including by underscoring the pro-enfranchisement and pro-candidate principles extolled by the Supreme Court. Yet, inconsistencies in the application of these principles by the courts hinder their ability to stand as examples of good practice.

Recommendations:

- The government and the National Assembly should conduct a review of the Elections Act, in particular Sections 214–218, with a view to considering the objectivity, proportionality, consistency, enforceability and efficacy of sanctions for non-compliance with statutory requirements. The Group suggests the Vienna Commission Guidelines on Political Party Regulation be considered as part of this suggested review.
- The government and the National Assembly should conduct a review of all provisions of the Elections Act relating to the registration status of political parties, with a view to clarifying the status of any party (and its candidates) to whom the allocation of a symbol has been refused.
- The Supreme Court and lower courts should ensure, to the greatest extent possible, consistency in the application of core democratic principles in dispensing decisions on electoral disputes or electoral cases heard under Article 184 (3) of the Constitution. To the extent that the courts may adopt a permissive jurisprudential stance, such a stance should be consistently applied.

Allocation of reserved seats

In the immediate post-election period, 86 PTI-aligned elected candidates joined the Sunni Ittehad Council (SIC). Thereafter, SIC petitioned that it be able to avail itself of its share of the reserved seats. The ECP decided, in its Order on 1 March 2024, not to allocate the reserved seats to SIC due to 'non-curable legal defects', including that the party had not submitted a list of reserved seat candidates prior to nomination day and had not contested – much less won - any seats in the election.[72] This Order was later upheld by the Peshawar High Court, whose decision resulted in the ruling coalition, comprising PML-N and PPP, seeing their seat totals increase to 123 and 73, respectively, thereby achieving a two-thirds majority in the lower house.[73]

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[70] Guidelines on Political Party Regulation by OSCE/ODIHR and Venice Commission, October 2010. www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2010)024-e

[71] Supreme Court Order, Civil Appeal No. 333 of 2024.

[72] ECP Order, 3 March 2024. https://ecp.gov.pk/storage/uploads/yKN2NccfvOJhcidBKQRVttz7qzL5KqD1SEqF7Xxj.pdf

[73] https://tribune.com.pk/story/2479025/ecp-decision-to-allocate-reserved-seats-to-ruling-coalition-unconstitutional-supreme-court

The reallocation of seats in the above manner appears to be contrary to Article 51 (1) (d) of the Constitution, which states that reserved seats are to be proportional to the number of general seats a political party wins. Such was the perversity of the reallocation along these lines, it resulted in some smaller political parties gaining more reserved seats than the number of general seats they had attained during the election.

On 12 July, in an 8-5 decision, the Supreme Court upheld the ECP and the Peshawar High Court's decision as it pertained to SIC's ineligibility to receive reserved seats. However, the Court stated that, by listing PTI candidates as independents, the ECP had misinterpreted the Supreme Court's ruling of 13 January, which had passed judgement solely in relation to the holding of intra-party elections and had not gone as far as to say these candidates were not members of PTI. Crucially, the Court stated:

> *It is declared that the lack or denial of an election symbol does not in any manner affect the constitutional and legal rights of a political party to participate in an election (whether general or bye) and to field candidates and the Commission is under a constitutional duty to act, and construe and apply all statutory provisions, accordingly.*[74]

The Court noted two categories of independent candidates: 39 candidates who had submitted oaths and party affiliation certificates to the ECP, and which the ECP had marked 'PTI'; and 41 independent candidates who had not submitted such documents and whose affiliation with PTI was not confirmed. With regard to the 39 candidates, the Court confirmed that they were returned PTI National Assembly members. With regard to the 41 candidates, the Court determined that they should be granted 15 days to confirm that they were contesting the election as members of a political party, and that the ECP should thereafter grant the relevant party 15 days to confirm the same. On the provision of such confirmation, the candidates should be deemed to be a returned candidate for that party.

On the basis of the foregoing, the Supreme Court ordered the ECP to reallocate the reserved seats, including to PTI, pursuant to Article 51 (1) (d) of the Constitution.[75] The Supreme Court's July decision thus had the effect of reversing some of the more far-reaching consequences of the ECP's decision to list PTI candidates as independents.

At the time of publication, the Group is aware that the Supreme Court's ruling has not brought finality to this issue. The ECP appears not to have fully implemented the Court's ruling. Shortly after, the National Assembly passed the Elections (Second Amendment) Bill 2024, which soon received presidential assent. This amendment, which sought to clarify the law in relation to the registration of independent candidates, is retroactive from 23 August 2023, and contains a provision that prevents any action or decision taken by the ECP in respect of the Amendment Act to be subject to judicial review by the Supreme Court or any other court.[76]

This had the effect of nullifying the Supreme Court's 12 July short order, thereby preventing the ECP from regarding PTI as a parliamentary party and allocating the party its share of the reserved seats. The ECP's prior Order that had allocated the reserved seats to other parliamentary parties would therefore still stand, and the governing coalition would retain its two-thirds majority in the National Assembly, affording it the ability to make constitutional amendments.

Additionally, the Elections (Amendment) Act 2024 contains changes to allow for the recruitment of retired judges to election tribunals.[77]

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[74] www.supremecourt.gov.pk/downloads_judgements/c.a._333_2024_12072024.pdf

[75] www.supremecourt.gov.pk/downloads_judgements/c.a._333_2024_12072024.pdf. The Group is aware of the dissenting opinion of two justices of the bench, who averred that, in ordering seats to be awarded to PTI, the majority decision strayed beyond what the Court was being asked to decide. See the dissenting opinion at www.supremecourt.gov.pk/downloads_judgements/c.a._333_2024_detailed_03082024.pdf

[76] www.na.gov.pk/uploads/documents/66bef5220f613_134.pdf

[77] https://na.gov.pk/uploads/documents/668cde32235b3_548.pdf

International good practice provides that electoral laws not be amended even one year *prior* to an election;[78] the passing of retroactive legislation several months *after* an election that affects extant election petitions cannot be regarded as democratic, particularly when these laws have the potential to substantially change the balance of power in the legislature.

Given that the issue of the allocation of reserved seats looked destined to be the subject of future litigation and/or legislative action over successive months, the Group has elected to use the 12 July Supreme Court order as the cut-off point for its observation.

Recommendations:

- The government and the National Assembly should consider an amendment to the Constitution and the Elections Act to clarify the method for calculating reserved seats when one or more of the returned general seat candidates is an independent candidate and he or she chooses not to join another political party in the three-day window following the official notification of the results.
- The government and the National Assembly should ensure no electoral laws are amended within one year of an election.

Electoral issues and dispute resolution

In Pakistan, the applicable complaints mechanism in an election may involve several institutions, depending on the nature of the offences and disputes. Notwithstanding any cases that the Supreme Court may hear under Article 184 (3) of the Constitution, election petitions and complaints are heard by election tribunals. Election tribunals are specialised judicial bodies that adjudicate disputes, including complaints about election conduct, candidate eligibility and election results validity. Election issues and disputes typically fall into three categories: pre-election (including voter registration and candidate nomination issues); election day (vote count and code of conduct violations); and post-election (result challenges).

Article 225 of the Constitution provides that:

> *No election to a House or a Provincial Assembly shall be called in question except by an election petition presented to such tribunal and in such manner as may be determined by Act of Parliament.*

Sections 37 (f) and 63 of the Elections Act provide for the establishment of pre-election appellate tribunals to hear appeals relating to candidate nominations. Section 140 provides for the appointment of post-election election tribunals.

> *Appointment of Election Tribunals.—*
> *(1) For the trial of election petitions under this Act, the Commission shall appoint as many Election Tribunals as may be necessary for swift disposal of election petitions.*
>
> *(2) An Election Tribunal shall comprise—*
> *(a) in the case of an election to an Assembly or the Senate, a person who is a Judge of a High Court; and*
> *(b) in the case of an election to a local government, a District and Sessions Judge or an Additional District and Sessions Judge.*
>
> *(3) The Commission shall appoint a sitting judge as Election Tribunal in consultation with the Chief Justice of the High Court concerned.*

The Group notes the power of appointment is vested in the ECP. The Group observes that, in circumstances where the ECP will be a party to election petitions, its role as appointing entity of the tribunal in which the ECP appears as a party could affect perceptions of the impartiality of the election tribunal. In addition, the Group notes that one of the election tribunals sat in a courtroom within the premises of the ECP. Given the ECP is often a party to election disputes, the Group queries whether having the tribunal sit in the premises of the ECP compromises its important and necessary independence.

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[78] The Carter Center (2014) Election Obligations and Standards, p. 47. www.cartercenter.org/resources/pdfs/peace/democracy/cc-OES-handbook-10172014.pdf; Article 2b, Venice Commission Code of Good Practice in Electoral Matters (2002). www.venice.coe.int/images/SITE%20IMAGES/Publications/Code_conduite_PREMS%20026115%20GBR.pdf

Recommendations:

- The government and the National Assembly should consider an amendment to the Elections Act that establishes a clearly independent process for the appointment of election tribunal judges, such as this role being given to the Judicial Commission of Pakistan.
- The ECP should consider ensuring that no election tribunals are held in ECP buildings so as to strengthen perceptions of their independence.

Pre-election issues and disputes

The ECP is empowered to appoint a Revising Authority (RA) to receive and decide claims, objections and applications for the correction of the preliminary electoral rolls following the preliminary publication of the electoral roll. Objections must be made within 30 days, or a period otherwise prescribed by the RA. The RA is then required to give notice to the parties concerned and hold a summary enquiry into each claim or objection or application. The decision of the RA is final.

Election day issues and disputes

Chapter X of the Elections Act, in Sections 167 to 199, sets out a wide range of offences, penalties and procedures, including, among others, offences relating to corrupt practice, bribery, undue influence and tampering with papers. In addition, there are offences relating to disorderly conduct or canvassing near a polling station and interfering with the secrecy of the ballot. Certain offences are triable by registration officers or authorised officers. Police officers are also given certain arrest and seizure powers in relation to some offences.

Post-election issues and disputes

Parties who consider they have a valid grievance arising from an election can contest the results through post-election petitions. Petitioning after an election can be done for several reasons, such as accusations of electoral fraud, anomalies in the way the election was conducted, the breaking of electoral laws or rules, and contestations regarding the eligibility of candidates. Petitioners are required to substantiate their allegations with proof and to show how the purported anomalies or violations affected the election result.

Post-election disputes are governed by Sections 139–166 of the Elections Act. Section 139 provides that, 'No election shall be called in question except by an election petition filed by a candidate for that election.' Election petitions must be filed before an election tribunal within 45 days of the notification of the winning candidate's result (S142 (1)). The ECP can appoint as many tribunals 'as necessary for the swift disposal of election petitions' (S140 (1)). All tribunals must be heard within 180 days of filing (S148 (5)).

Section 154 (5) of the Elections Act provides for the powers of the election tribunal. It states:

> *The Election Tribunal may dismiss the petition or pass one of three orders: that the election is void and a fresh poll must be held in one or more polling stations;*
> *that the election is void and the petitioner or some other contestant stands elected;*
> *or that the election is void and fresh election has to be held in the entire constituency.*

Under Section 155 of the Act, the decision of the tribunal may be appealed to the Supreme Court within 30 days of the date of the decision; such appeals must be decided within 180 days. Thus, the maximum timeframe from the initial announcement of a result by the ECP to a decision of the Supreme Court is 435 days.

The Group considers that the period of time to decide an election petition is too generous. Candidates, parliament and voters are faced with uncertainty. The Group notes that, in 2018, some election petition appeals were not heard and decided by the Supreme Court within the 180-day period. Indeed, the Group was informed of a case that was still ongoing after four years. Additionally, as Chapter 6 discusses in more depth, it seems likely that the vast majority of post-election petitions related to the 2024 election will go beyond the 180-day statutory timeframe. The Group is concerned that, in contrast with the alacrity of deciding disputes pre-election, the time to decide disputes in the post-election period is unduly lengthy.

Recommendations:

- The government and the National Assembly should consider an amendment to the Elections Act to reduce the timeframe for filing an election petition from 45 days to 30 days, and for the amount of time for the tribunal to issue its decision from 180 days to 60 days.
- The government and the National Assembly should consider an amendment to the Elections Act to reduce the timeframe for the Supreme Court to determine an appeal from 180 days to 90 days.
- Election tribunals and the Supreme Court should ensure they adhere to the statutory timeframe for decisions.
- To the extent possible, chief justices of the high courts should ensure the caseloads of judges appointed to election tribunals consist solely of election petitions so as to ensure the tribunals are able to dispose of cases within the statutory timeframes.

Voter eligibility and registration

The ECP oversees voter eligibility and registration. According to Article 106 (2) of the Constitution, a person is eligible to register to vote if they are a citizen of Pakistan; are 18 years or older; are in possession of a computerised national identification card (CNIC); are not declared by a competent court to be of unsound mind; and have their name appear on the electoral roll for any area in the province.

NADRA provides data to the ECP on every fresh ID card issued, on an ongoing basis, to assist the ECP in registering the individual on the electoral roll (S25 (1)). This process helps facilitate continuous voter registration, except for the cut-off point for inspection of the register.

Periodically, the ECP organises voter registration drives to register eligible persons. Personal data such as names, addresses, dates of birth and CNIC numbers are usually gathered throughout the registration procedure. A voter registration form and accompanying documentation, such as a copy of the CNIC or another form of valid ID, must be submitted for a citizen to register to vote. The CNIC issued by NADRA is deemed to be valid for registering to vote as well as for casting a vote in an election, notwithstanding the expiry of its validity period. For the 2024 elections, the ECP provided access to voter information through online verification systems, voter helplines and public notices. Public awareness campaigns aimed to increase voter participation and ensure broad representation in the electoral process.

For the 2024 elections, a total of 128 million citizens were registered to vote, representing 53.2 per cent of the population. This compares with 106 million, or 49.6 per cent, in 2017. Thus, there was a continuation of the upward trajectory in the total number of registered voters, as well as the number of registered voters as a percentage of the number of citizens.

However, there were concerning disparities in the ratio of citizens to registered voters between the provinces. Analysis by FAFEN found that registered voters in Punjab were 57.3 per cent of the population, in Islamabad 45.8 per cent (up from just 36.5 per cent in 2018), in Sindh 48.5 per cent and in KP 53.7 per cent. Yet, while Balochistan saw a 5 per cent increase between 2018 and 2024, the figure stood at just 36 per cent, significantly lower than in all other regions.[79] This points to a need for the ECP to concentrate additional voter registration resources towards Balochistan. The Group makes a recommendation in this regard in Chapter 4.

The Group was informed that the floods that affected parts of Pakistan meant some people lost their documentation. The Group was informed that the ECP, with the support of the United States Agency for International Development (USAID) and the United Nations Development Programme (UNDP), undertook a special registration exercise for women voters who were affected by the floods. The Group commends the efforts of the ECP and multilateral partners for this endeavour.

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[79] https://fafen.org/wp-content/uploads/2024/01/240131-GE-2024-Electoral-Rolls-Assessment-Report-Final.pdf

Overseas voting

The issue of overseas voting rights has a long history of political discussion in Pakistan. In light of this, it is worth surveying developments in the past few years.

The Constitution does not require that Pakistanis be ordinarily resident in the country in order to be eligible to vote. According to the Overseas Pakistani Foundation, which falls under the Ministry of Overseas Pakistanis & Human Resource Development, there were approximately 9 million overseas Pakistanis in 2023.[80] By dividing the total number of Pakistani overseas citizens by 266 (the number of National Assembly constituencies), there would be roughly 34,000 overseas voters per National Assembly constituency. Noting the narrow margin of victories in many National Assembly constituencies in the 2018 elections, it can be assumed that the inclusion of overseas votes would have a significant impact on election results.

In order to aim towards the extension of voting to overseas Pakistanis, the first iteration of the Elections Act, in Section 94 (1), stated 'the Commission may conduct pilot projects for voting by Overseas Pakistanis in by-elections to ascertain the technical efficacy, secrecy, security and financial feasibility of such voting'. Following the 2018 election, the Supreme Court directed the ECP to undertake such pilots in by-elections.[81] The ECP changed the Election Rules in 2018 to stipulate that the system of voting would be internet voting. The ECP undertook pilot testing of an iVOTE system, which had been developed with NADRA, and established the Internet Voting Taskforce (IVFT).

The results of the pilot demonstrated a number of serious security weaknesses.[82] Given the immense complexities of establishing secure internet voting, such results were likely not a surprise to the ECP, NADRA or Pakistani information security experts, who had been invited to review the results in a special session convened by the Supreme Court.[83]

A May 2021 external audit of internet voting in Pakistan, commissioned by the Ministry of Information, Technology & Telecommunications, also found a series of weaknesses and made a number of recommendations to improve security, including going as far as to suggest moving to a new system altogether.[84]

The same month, Section 94 (1) was amended to the following: 'Commission *shall* with the technical assistance of the National Database and Registration Authority (NADRA) or any other authority and agency, *enable overseas Pakistanis to exercise their right to vote* [italics added for emphasis] during general elections in the manner prescribed by the Commission.'

In 2022, Section 94 of the Elections Act was amended once again under the government of Shehbaz Sharif to state, 'The Commission *may conduct pilot projects* [italics added] for voting by Overseas Pakistanis in Bye-elections to ascertain the technical efficacy, secrecy, security and financial feasibility of such voting and shall share the results with the Government, which shall, within fifteen days from the commencement of a session of a House after the receipt of the report, lay the same before both Houses of Majlis-e-Shoora (Parliament).'

This amendment essentially rolled back the demands of the Act to its earliest iteration, specifying only that pilots should be conducted. The effect of this amendment was that the ECP was not compelled to implement, and did not implement, a system for overseas voting for the 2024 election.

The Group fully appreciates the enormity of the challenges posed by establishing a secure yet transparent internet voting system. The ECP and NADRA, both institutions with considerable technical expertise, understand these challenges more than anyone. The Group therefore does not wish to make any detailed recommendations in this regard. However, given the inherent cybersecurity challenges associated with

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80 www.opf.org.pk/#

81 Farhat Javed Siddique and others v. Government of Pakistan (Const. P. 74-79/2015, 49-56/2016, 2/2018, Civil Misc. Apps. 4292/2017, 162/2018). https://opc.lhc.gov.pk/pdf/PLD_2018_Supreme_Court_788_Dr_FARHAT_JAVED_SIDDIQUE_and_15_others.pdf

82 https://ecp.gov.pk/storage/files/1/report3.pdf

83 Const.P.NO.2/20118-SCJ.

84 https://ecp.gov.pk/storage/files/1/law4.pdf

internet voting, the ECP may wish to consider other methods, such as the hybrid internet and postal vote model, whereby ballots are accessed securely and remotely on digital devices, but are printed, completed and returned via international post.

Yet, consideration of other methods may require a legislative amendment, given the current legal requirement that all votes be cast on the same day. This provision presents practical hurdles for the ECP and, even with a secure i-voting system in place, could disenfranchise voters in certain time zones.

Recommendation:

- In order to expand the options available to the ECP in its pursuance of Section 94 (1) of the Elections Act on overseas voting, the government and the National Assembly should consider legislative amendments that would extend the voting period for overseas voters.

Candidate nomination

The nomination process for the 2024 election commenced on 20 December 2023 and the nomination period was extended by two days at the demand of various political parties.

Candidate nomination forms are submitted to an RO, who may reject the nomination paper of any candidate who is not qualified to be elected as a candidate or disqualified from being a candidate. ROs and DROs are not required to be a legally qualified person and are appointed by the ECP.

Section 50 of the Election Act 2017 provides:

> *Appointment of District Returning Officer.*
> *(1) For election to an Assembly, the Commission shall, in the prescribed manner, appoint a District Returning Officer for each district or a specified area*
> *a. from amongst its own officers subject to availability;*
> *b. by selection from a list of officers provided by the Government or a Provincial Government; or*
> *c. from the subordinate judiciary in consultation with the Chief Justice of the concerned High Court."*

ROs and Assistant Returning Officers (AROs) are appointed in accordance with Section 51 of the Election Act, which provides:

> *The Commission shall, in the prescribed manner, appoint, from amongst its own officers or officers of any Government or corporations, autonomous or semi-autonomous bodies controlled by any Government, or from the subordinate judiciary in consultation with the Chief Justice of the concerned High Court, a Returning Officer for each constituency.*

In previous elections, DROs and ROs were appointed from among the judiciary. In advance of this election, chief justices of high courts declined to put forward lists of relevant officers. This decision was, the Group was told, based on the judiciary's concern about its officers' existing workload, including in electoral disputes, and that these officers lacked any free time to take on additional responsibilities.

The ECP ordered that ROs be recruited from the bureaucracy. PTI took the matter to Lahore High Court, which suspended the ECP's order. The ECP took the matter to the Supreme Court, which overturned Lahore High Court's order and upheld the ECP's original order.[85] PTI's concern was that the appointment of ROs and DROs from government bureaucracies could affect the quality and consistency of decisions made, given their lack of legal training, as well as – according to PTI – presenting the possibility of bias or pressure from government superiors, with impacts on decisions.

On 25 December 2023, the day after the deadline, the ECP issued a summary stating that 28,626 nomination papers had been received.[86] Following the period of scrutiny by ROs, the ECP issued a summary of approved and rejected candidate nomination forms on 1 January 2024, noting that the total number of nomination forms received by the ECP was 24,698, which was 3,928 fewer than had been stated on 25

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[85] www.dawn.com/news/1798131

[86] https://x.com/ECP_Pakistan/status/1739226961673867363?s=20

December. The reasons for the difference are unclear. The summary stated that, of the 24,698 nomination forms received, 3,240 were rejected and 22,711 were approved. The summary did not list the nominated candidates by party.

According to Central Punjab nomination papers data, of the 281 papers submitted for 44 National Assembly constituencies, 95 (34 per cent) were rejected and 186 were accepted. For the 603 Provincial Assembly constituencies, 195 (32 per cent) were rejected.[87] These percentages are within 10 per cent of the ECP's statistics for the country as a whole. The ECP informed the Supreme Court on 7 January 2024 that '598 out of a total of 843 nomination papers of PTI candidates for the National Assembly were accepted, while another 1,398 out of 1,777 candidatures for provincial assemblies were approved.'[88] The ECP's evidence to the Supreme Court was in response to a contempt petition filed by PTI against the ECP for failing to comply with the apex court's order that it ensure a level playing field for the election.

Following nomination day, PTI filed appeals contesting dozens of rejected nomination papers for its candidates. Appeals against the orders of the ROs go to an appellate tribunal (election tribunal), consisting of a person who is or has been a judge of the high court. The decision of the election tribunal is final, subject to orders passed in the constitutional jurisdiction of the high court and the Supreme Court. The Elections Act provides:

> *63 (2) An Appellate Tribunal shall summarily decide an appeal filed under sub-section (1) within such time as may be notified by the Commission and any order passed on the appeal shall be final.*

In one such case, PTI reported that the RO for NA-132 (Kasur-II) had included PTI candidate Muhammad Saleem among the 19 valid candidates. However, this list was later revised with Mr Saleem's name removed.[89] The Group was also informed, and saw media reports, that some candidates had been harassed and had their papers snatched when attempting to submit them to the RO. The Group was unable to confirm allegations of snatching.

At the very least, it does appear that in some cases ROs rejected nomination papers, including of PTI candidates, on technical grounds or for reasons that were not entirely clear, as evidenced by the overturning of these decisions by the courts in the days and weeks that followed.

As noted further up this chapter, the Group considers that ROs, who act independently of the ECP, should receive training following Supreme Court decisions on candidate nominations. Such training would ensure an enhanced understanding of the analysis of the Supreme Court and would further ensure that the Supreme Court's jurisprudence is reflected in future decisions of ROs. This would avoid the perception than can arise that decisions are not made impartially and would avoid the costs incurred, and the delays and uncertainties created, when nominations are initially rejected but, after multiple hearings within a short space of time, those rejections are found to be inappropriate.

The Group also considers that the government and the National Assembly may wish to amend Section 51 of the Elections Act to allow for the recruitment of other upstanding citizens as ROs, such as university lecturers. Such an expansion could further help avoid perceptions regarding a lack of impartiality of ROs.

Recommendations:

- The Supreme Court and the ECP should co-operate on the provision of training to ROs on the jurisprudence of the Supreme Court regarding candidate nominations.
- The government and the National Assembly should consider amending Section 51 to allow for ROs to be drawn from outside the civil service, such as from among university lecturers.

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[87] www.dawn.com/news/1802259

[88] https://economictimes.indiatimes.com/news/international/world-news/nomination-papers-of-76-per-cent-of-pti-candidates-accepted-ecp-tells-pakistans-apex-court/articleshow/106614995.cms?from=mdr

[89] www.dawn.com/news/1802259

Candidates contesting multiple constituencies

Article 223(2) of the Constitution allows individuals to stand as candidates in more than one seat including, simultaneously, seats in the National and Provincial Assemblies. If a candidate is successful in more than one seat, they must vacate all but one of these seats within 30 days. If they fail to do so, all but the most recent seat to which they have been elected shall become vacant. If they are elected to more than one seat on the same day, all but the most recent seat for which they filed nomination papers shall become vacant. Section 60(2) of the Elections Act implicitly allows for the submission of nomination papers for more than one constituency. Neither the Constitution nor the Act places limitations on the number of constituencies that can be contested by the same individual.

The ability to contest multiple seats has multiple significant downsides. First and foremost, it allows wealthy individuals and 'electables' who can afford the high cost of multiple sets of nomination fees to stand in multiple constituencies and increase their chances of winning. This comes at the expense of the voter. Individuals who stand in multiple constituencies are potentially less likely to have an awareness of key issues affecting their potential constituents, and may therefore be less well positioned to represent those views in parliament. Additionally, a voter cannot be sure whether their vote for such a candidate might ultimately be a 'wasted' vote if that candidate wins but thereafter chooses another seat.

Third, the vacation of numerous seats in the weeks following a general election, and the subsequent holding of by-elections, causes additional disruption and confusion for voters, as well as to the ECP, which 'estimates a cost of Rs20.7m (US$74,000) associated with conducting by-elections in constituencies vacated by winning candidates. These expenses, borne by taxpayers, are hard to justify, especially in a country facing economic challenges.'[90]

These downsides and others are keenly understood by Pakistani civil society and some political parties. In a December 2023 consultative meeting jointly hosted by PILDAT and UNDP, attendees discussed recent instances in Pakistan's electoral history that underscored these challenges, including the decision of Imran Khan to stand in seven constituencies in the October 2022 by-elections and his subsequent decision not to take up a seat in the National Assembly, despite having won all seven.[91]

In November 2022, a private members' Bill was tabled in the National Assembly by Maulana Abdul Akbar Chitrali, the lone member of Jamaat-e-Islami (JI). The Bill sought to amend Article 223(2) to limit the number of constituencies an individual can contest to two.[92] The Bill did not advance.[93]

The Group regards the need for legislative reforms on multiple candidacies to be of critical importance to further strengthening representative democracy in Pakistan, and strongly recommends that political parties work together in this regard.

Recommendation:

- The government and the National Assembly should seek to amend Article 223(2) of the Constitution to limit the number of constituencies an individual can contest to one.

Controversies regarding the registration and delisting of political parties and the allocation of party symbols are addressed further up this chapter.

Political party candidate nomination fees

Section 61 of the Elections Act sets standard nomination fees for political party candidates as follows: R30,000 (~US$106) for election to a seat in the National Assembly and R20,000 (~$70) for election to a seat in a Provincial Assembly. For context, the average salary in Pakistan in 2022 was approximately R20,000 per month.[94] The Group understands that there have been efforts in the past to increase nomination fees, which political parties have rejected.[95]

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[90] www.dawn.com/news/1799598

[91] https://tribune.com.pk/story/2396745/ecp-decides-to-notify-imrans-win-on-7-na-seats

[92] www.dawn.com/news/1720260

[93] www.dawn.com/news/1799598

The Group regards the current fees as fairly reasonable, and would caution against any increase that could significantly reduce the ability of regular Pakistanis to contest elections. The ECP's guiding principle should be to ensure that inclusion and representation remain the primary determinants in the setting of fees.

However, if the current ECP fees for nomination papers are reasonable, the same cannot necessarily be said for political party nomination forms. According to media reports in November 2023 (prior to the Supreme Court's decision in relation to the bat symbol), both PML-N and PTI had fixed 'non-refundable' fees at R200,000 (roughly 10 months' salary for the average Pakistani) in order to contest an election on their party's ticket.[96]

While political parties aver that the high cost of such tickets is in order to prevent frivolous or non-serious candidates from contesting the election, and that such fees represent a significant funding opportunity for parties, the Group believes that such high fees contribute significantly to a scenario in which only wealthy individuals and so-called 'electables' are able to contest elections. As such, a key principle of representative democracy – that individuals are elected based on a set of ideas and policies with which voters align themselves – is undermined by a political culture that is optimised for participation by wealthy individuals only, regardless of the merit of their policy platform.

Recommendation:

- In order to expand opportunities for Pakistanis of modest means to contest elections, the government and the National Assembly should consider legislation that would place caps on party nomination fees.

Registration of political parties

The ECP is responsible for the registration of political parties in Pakistan. According to Section 2 (xxviii) of the Elections Act:

> *'political party' means an association of citizens or a combination or group of such associations formed with a view to propagating or influencing political opinion and participating in elections for any elective public office or for membership of a legislative body, including an Assembly, the Senate, or local government.*

The right to form a political party is set out in Articles 16 and 17 of the Constitution on freedom of assembly and association. The legal requirements for establishing and enlisting a political party are set out in Sections 200–202 of the Elections Act; requirements include having a constitution and ensuring the party does not propagate beliefs that are contrary to the values enshrined in the Constitution of Pakistan. Provisions relating to membership of political parties, campaign finance, sanctions against members, the holding of intra-party elections and the dissolution of political parties are set out in Sections 203–213. Provisions relating to the allocation of party symbols are set out in Sections 214–218.

Parties must apply with relevant documents; the ECP scrutinises the application and documents to ensure compliance. If successful, the party is registered and issued a certificate of registration. Electoral symbols are assigned to registered parties for use on ballot papers during elections. The ECP monitors and regulates political parties, ensuring transparency and accountability.

The ECP does not have a formal mechanism for engaging with political parties (parliamentary and non-parliamentary) and independent candidates. The Group was informed that the ECP conducted stakeholder engagement with political parties in an *ad hoc* manner as and when deemed necessary, and not regularly via a formal mechanism.

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[94] www.ceicdata.com/en/pakistan/average-monthly-wages-by-industry/average-monthly-wages

[95] www.dawn.com/news/1792845

[96] Ibid.

Recommendation:

- The ECP may wish to consider the establishment of a multi-party committee that meets regularly to apprise parties of developments and milestones, and to hear and respond to concerns of grievances as and when they arise. Such a mechanism is aligned with international good practice and could increase transparency and help build trust, both in the ECP and between political parties.

Political party defections

To combat party defections and preserve political stability, Pakistan has implemented anti-defection legislation. Provisions concerning defection can be found in Article 63(A) of the Constitution and in the Rules of Procedure and Conduct of Business in the National Assembly and Senate.

Article 63(A) (1) of the Constitution allows the leader of a parliamentary party to submit a declaration to the ECP in the event that a member of that party votes against the party line on votes relating to the election of the Prime Minister, a vote of no confidence, a money bill or a constitutional amendment bill. Upon receiving the declaration, the ECP has 30 days to consider the declaration. If the ECP accepts the declaration, the member's seat is vacated. Any aggrieved party can petition to the Supreme Court with 30 days; the Court must issue a decision within 90 days.

Data protection and information security

The Constitution of Pakistan enshrines the right to privacy as a fundamental right: the 'dignity of man, and subject to law, the privacy of home, shall be inviolable' (Article 14 (1)). The Group understands that the phrase 'privacy of home' has been used quite expansively by the courts in a number of cases, and has even extended to communications and data.[97]

Beyond this constitutional provision, Pakistan does not have a standalone data protection act. Instead, data protection and privacy law is limited to certain provisions within sector-specific legislation such as banking legislation and the Pakistan Electronic Communications Act (discussed in more detail in Chapter 5).

Draft Personal Data Protection Bill

The 2023 Personal Data Protection Bill, which has been approved by the federal cabinet, represents a long overdue effort to regulate personal data in Pakistan.[98] However, CSOs have raised a number of concerns with the draft Bill. Although Section 35 (2) states that the envisaged National Commission for Personal Data Protection (NCPDP) would be 'autonomous', the same provision goes on to state that it would be under the 'administrative control of the Federal Government'. This raises the possibility of the work of the NCPDP being subject to pressure and interference from the federal government, and by extension government agencies and bodies. Indeed, Section 43 grants the federal government the authority to issue policy directives. As such, the government would have the authority to issue policy directives that affect the work of NADRA, the body that stores data used in the registration of voters.

The draft Bill also has implications for the protection of fundamental human and political rights, such as freedom of speech and privacy. Indeed, certain provisions of undermine the protections afforded to individuals under the Bill's other provisions. For instance, the draft Bill includes provisions that are tantamount to data localisation, insofar as 'critical data' – a term not defined under the Bill – must be processed on servers based in Pakistan (Section 31 (2)). Failure to comply could result in the revocation of operating licences for social media companies operating in Pakistan,[99] which would represent a *de facto* limitation on freedom of speech.

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[97] https://www.lexology.com/library/detail.aspx?g=ee349cf9-9a57-48af-ad46-052e958dd89a

[98] https://moitt.gov.pk/SiteImage/Misc/files/Final%20Draft%20Personal%20Data%20Protection%20Bill%20May%202023.pdf

[99] www.icnl.org/resources/civic-freedom-monitor/pakistan#snapshot

Furthermore, according to a civic freedom monitor report by the International Center for Non-Profit Law (ICNL), Pakistan CSOs and human rights defenders have raised concerns that local data storage entails data security risks.[100] Such a concern is echoed by Pakistan's Digital Rights Foundation, which notes that critical terms such as 'national interest', 'national security', 'public interest', 'legitimate interest' and 'critical data' are either broadly or ambiguously defined or not defined at all.[101] The lack of clarity regarding such definitions is of significant concern, since it could theoretically provide a legal basis for the state to access the personal data of politicians, CSOs, journalists, activists and human rights defenders under the pretext of, for example, a 'national interest' exemption.

Recommendation:

- The government should pass a data protection act that provides clear definitions of critical terms and aligns with international standards on data protection, such as Convention 108+. The Act should ensure that any statutory body envisaged by the Act is fully autonomous and is not subject to policy or other directives of the federal government.

Publication of the voter list

Section 28 of the Elections Act compels the ECP to publish the preliminary voter register, along with an invitation for the submission of claims, objections and corrections for a period of at least 30 days. Section 35 stipulates that, following the period of inspection, the final voter register be published by the registration officer for each electoral area.

While the Group understands that voters were able to use the 8300 service to check their registration status, the Group understands that the voter register was not published by the ECP for public inspection. The ECP's justification, according to reports, was that the publishing of voter registers is against international good practice since the data could be subject to hacking, as has happened in other countries in the past.[102] The ECP further averred that the hacking of the voter register could place the ECP in violation of Section 195 of the Elections Act, which prohibits the divulging of personal information by the Commission.

The Group appreciates there is a need to balance transparency against information security concerns. However, international good practice does exist for the safe publication of redacted versions of voter registers, for example containing only names, registration numbers and assigned polling stations. Indeed, the publication of the voter register is seen as a critical component of electoral transparency. Equally, there exist good practices for the provision of more detailed voter registers to political parties, usually for a fee. Neither the publication of a redacted voter register, nor the provision of a more detailed register to political parties, would itself threaten the protection or integrity of the full voter register maintained by the ECP, for which there would need to be adequate security in any case. In addition, the ECP could insert security features into versions provided to political parties, such that, if the register were sold or placed online, the ECP would at least be able to determine which political party the register had initially been provided to. The need to ensure adequate information security controls are in place further underscores the need for data protection law to be enacted by parliament.

Recommendations:

- The ECP should publish a redacted version of the voter register on its website in line with its obligations under Section 28 of the Elections Act.
- For a fee, the ECP should provide political parties with a copy of the voter register. The ECP could consider the inclusion of security features within these copies.

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[100] Ibid.

[101] https://digitalrightsfoundation.pk/wp-content/uploads/2023/07/Legal-Analysis-Statement-on-PDPB-July-2023.pdf

[102] www.dawn.com/news/1801435

Use of personal data by political parties

The ability of political parties to reach out and communicate with their voters is an integral part of political campaigning in any representative democracy. The datafication of political campaigning has, in recent years, resulted in new forms of increasingly personalised and targeted campaigning by making use of voters' data, as well as the proliferation of new actors such as data brokers, marketing and micro-targeting services, and platforms themselves. However, campaigning methods should not come at the expense of voters' constitutional right to privacy. As such, and as noted above, access to the voter register by political parties should be strictly controlled by the ECP. Were Pakistan to pass its draft Personal Data Protection Bill, a future data protection commission would also have a key role to play in regulating political parties' access to and processing of personal data from other sources.

The Group is aware of anecdotal reports of voters being targeted via automated calls from candidates and parties. The Group was unable to verify these reports, but this potential avenue for campaigning, combined with the increased use of other personal data for targeted campaigning, underscores the need for political parties to be fully sensitised to data protection principles for future elections.[103]

Recommendations:

- Whether in the absence of a data protection act or in accompaniment to one, the ECP should consider publishing guidelines for political parties and candidates on the processing of personal information for political campaigning in a manner that respects voters' constitutional right to privacy.
- The ECP should consider introducing a new provision in the Code of Conduct for Political Parties, Contesting Candidates and Election Agents on the use of personal data for political campaigning.

Recruitment and training of the temporary workforce

The recruitment of DROs and ROs is addressed further up this chapter. Section 53 of the Elections Act stipulates that ROs must:

> *appoint for each polling station a Presiding Officer and such number of Assistant Presiding Officers and Polling Officers from amongst the officers of any Government or corporations, autonomous or semi-autonomous bodies controlled by any Government to assist the Presiding Officer as the Returning Officer may consider necessary.*

The RO must not recruit any individual who has previously worked for any of the candidates, and must submit a list of POs and APOs to the DRO for approval.

Section 55 of the Elections Act provides for disciplinary actions against election officials for any acts of misconduct under the Elections Act or the Efficiency and Discipline Rules. The ECP may appoint an enquiry officer to initiate any such proceedings, and the ECP may also initiate criminal proceedings under Sections 188 and 184 of the Act. All election officials are required to take an oath prior to the commencement of his or her election duty.

In a press release dated 4 January 2024, the ECP said it had completed the training of 579,191 election officials and intended to complete the training of an additional 406,222 by early February, bringing the total temporary workforce to 986,413 people. The training for the first tranche of officials began in late November 2023. The ECP confirmed it had, as of 4 January, received 45 complaints to the ECP's Central Control Room, each of which it stated that it had addressed. The ECP also announced it had established 180 control rooms across the country at the provincial, divisional and district levels.[104]

It appears that some irregularities in the tabulation of results occurred on and after election day, including at the RO collation centres. This shall be addressed in more depth in Chapter 6.

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[103] The Council of Europe's Guidelines on the Protection of Individuals with regard to the Processing of Personal Data by and for Political Campaigns is instructive in this regard: https://rm.coe.int/guidelines-on-data-proetction-and-election-campaigns-en/1680a5ae72

[104] https://ecp.gov.pk/press-releases/press-release-in-connection-with-the-training-of-polling-staff-for-general-elections-2024

4. Participation and Inclusion

Civil society

Civil society and non-governmental organisations (NGOs) in Pakistan play an important role in the process of democratic consolidation and the protection of human rights. Pakistan's approximately 45,000 organisations – including those focused on development as well as those addressing democracy and human rights - employ around 300,000 people at present, using around 200,000 full-time staff. According to ICNL, CSOs are also engaged in lobbying for legal and fiscal reform and take a proactive approach in defining issues for the national agenda. This new role is partly derived from the comparatively large volume of resources the civil society sector now commands.[105]

The legal framework for CSOs is highly complex, consisting of approximately 20 federal and provincial laws, with some dating back to the period of the British Raj.[106] As ICNL notes, 'these laws may be divided into several categories. Some laws govern the registration, internal governance, and accountability of organizations. Other laws govern how they are financed and managed. Still other laws govern the reporting relationship between the state and CSOs with respect to their operations or the way they treat their employees.'[107] Among the newest and most significant of these laws are the 2020 Trust Acts, passed separately by each Provincial Assembly, and the 2017 federal Charities Act. Other laws include the Societies Registration Act 1860, the Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961 and the Companies Ordinance 1984. According to ICNL, taken as a whole, the legal framework can be considered generally enabling for civil society and the activities of CSOs.[108]

The Group understands, however, that CSOs confront significant levels of regulatory bureaucracy. According to one CSO, much of this bureaucracy stems from the need to ensure CSOs are not involved in the financing of terrorist activities.[109] In 2018, Pakistan was placed on the grey list of the Financial Action Task Force (FATF), an independent inter-governmental body that develops and promotes policies aimed at protecting the global financial system from terrorist financing.[110] Indeed, it was in response to FATF recommendations that Pakistan repealed the 1882 Trust Act and Provincial Assemblies passed their respective Trust Acts.[111]

Additionally, in 2019 Pakistan introduced new policies in response to FATF's recommendations.[112] Pakistan's 2022 NGO Policy (and its previous iterations since 2019) requires that all CSOs that receive foreign funding must enter into a Memorandum of Understanding (MoU) with the Ministry of Economic Affairs, with MoUs granted to CSOs only following a screening process by the country's security apparatus.[113] All CSOs, regardless of whether they receive foreign funding, must also be screened by security agencies in accordance with relevant federal and provincial laws, and in many instances must also obtain No Objection Certificates (NOCs) from government agencies to undertake their work.[114] According to ICNL, as many as 38 per cent of CSOs are not registered under any law.[115]

The Group appreciates the distinct circumstances that necessitate such significant levels of regulatory oversight, and does not wish to question the rationale either for FATF's recommendations or the government's response to them. In seeking to understand the landscape in which CSOs in Pakistan operate, the Group notes that, according to reports, more than 60 per cent of CSOs have faced challenges obtaining MoUs, more than 80 per cent have faced challenges opening bank accounts and, in KP alone, the number of CSOs fell from 5,000 in 2019 to 1,200 in 2022.[116] Furthermore, ICNL notes that as many as 38 per cent are not registered under any law.[117]

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[105] www.icnl.org/resources/civic-freedom-monitor/pakistan
[106] www.icnl.org/resources/civic-freedom-monitor/pakistan#snapshot
[107] www.icnl.org/resources/civic-freedom-monitor/pakistanhttps://www.icnl.org/resources/civic-freedom-monitor/pakistan
[108] Ibid.
[109] https://afpak.boell.org/en/2023/08/04/csos-tangled-policy-net
[110] www.fatf-gafi.org/en/topics/Terrorist-Financing.html
[111] https://democracyreporting.s3.eu-central-1.amazonaws.com/images/4129DRI%20Handbook_English%20Version.pdf
[112] Ibid.
[113] https://ead.gov.pk/SiteImage/Policy/NGOs-Policy-2022.pdf
[114] https://afpak.boell.org/en/2023/08/04/csos-tangled-policy-net
[115] www.icnl.org/resources/civic-freedom-monitor/pakistan

Part of the problem appears to be a lack of concomitant support provided by government to CSOs to enable them to navigate this environment. Speaking in the context of challenges with registration and regulatory compliance, Amina Durrani, Director of Programmes at the Khyber Pakhtunkhwa Commission on the Status of Women (KPCSW), stated that, 'Improved mutual cooperation among government and the non-profit sector is essential to promote human rights and sustainable development in the country.'[118] The need to address such challenges is made more acute by reports that, 'The State is moving away from being the monopoly provider of social services' and is seeking to outsource the provision of such services to non-state actors, including CSOs.[119] The risk of moving towards a greater reliance on CSOs without a concomitant increase in support for navigating the increasingly complex regulatory environment is that CSOs – including those focused on the protection of human and political rights - may find it difficult to remain operational.

Despite these challenges, a number of CSOs and non-profit organisations have played a crucial role in fostering democratic consolidation in Pakistan over the years. For example, FAFEN is a consortium of 20 civil society networks comprising 500 organisations across 4 provinces. FAFEN, along with partner organisation Trust for Democratic Education and Accountability (TDEA), is dedicated to strengthening democracy through the provision of oversight and observation of electoral, parliamentary and governance processes; advocacy for women and minority inclusion; and citizen observation. In advance of the election, FAFEN published valuable reports on critical phases of the 2024 electoral cycle, including on voter registration, boundary delimitation and women's political representation.[120]

For the election, FAFEN deployed 300 long-term observers and mobilised and trained a further 5,664 of their members, including youth, as short-term observers for the 2024 elections. The short-term observers comprised 3,913 males, 1,740 females and 11 transgender persons. This number provided coverage of around 25 per cent of the 90,675 polling stations in 265 constituencies.[121] These citizen observers were oriented on the provisions of voting and counting processes at polling stations as per the Elections Act and Rules and the ECP handbook for domestic election observers. FAFEN is to be commended for its valuable contribution to the health of Pakistan's democracy. The Group notes that FAFEN's short-term observers did not undertake a Parallel Vote Tabulation exercise (newer methodologies refer to this as a Process and Results Verification for Transparency (PRVT) exercise),[122] which, if implemented, could further enhance the robustness of their contribution to Pakistan's democratic process.

Recommendations:

- For future elections, CSOs should consider the feasibility of undertaking a PRVT exercise. Should there be a need for any amendments to the Elections Act to provide for this, the government and the National Assembly should take the necessary steps.
- The ECP should provide accreditation to CSOs that wish to undertake a PRVT exercise. In order that there is broad understanding of the purpose and legitimacy of such an exercise, the ECP should ensure polling staff and law enforcement are fully sensitised on this issue.

The Aurat Foundation, a member of FAFEN, is committed to increasing awareness and commitment to a just, equal and democratic society in Pakistan. The Aurat Foundation has championed activities geared towards the inclusion of women in the democratic process, including drawing the ECP's attention and calling for action where legally defined electoral quotas were not met by political parties in the 2024 election.[123] These are but two of countless CSOs contributing to enhancing democracy and electoral processes in Pakistan.

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[116] https://afpak.boell.org/en/2023/08/04/csos-tangled-policy-net
[117] https://www.icnl.org/resources/civic-freedom-monitor/pakistan
[118] Ibid.
[119] www.icnl.org/resources/civic-freedom-monitor/pakistan
[120] https://fafen.org/publications/
[121] https://fafen.org/wp-content/uploads/2024/02/FAFEN-Preliminary-Report-on-Observation-of-GE-2024-1.pdf
[122] www.ndi.org/process-and-results-verification-transparency-prvt

The Group commends CSOs for their ongoing efforts to provide assistance to citizens on issues affecting their political rights and democratic participation. This should be met by a concomitant degree of support from the government to help them navigate and comply with the regulatory regime and provide a more enabling environment in the future.

Recommendation:

- In order to create a more enabling environment for CSOs, the government should review its policies and procedures in relation to their registration and regulation, with a view to simplifying and streamlining processes where possible and providing more support to CSOs seeking to navigate the regulatory environment.

Civic education

The Group notes the passage of the National Civic Education Act 2018, shortly before the previous general election, which aims to educate the public on civil and political rights. The Act calls for the establishment of a commission whose functions, as outlined in Section 7 (a), include 'develop[ing] the understanding of the principles and objectives of the Constitution, fundamental rights as enshrined in the Constitution and inculcating respect for the rights of women and minorities in the students.'[124] This is a commendable and important endeavour. However, there are two issues. The first is that this Act extends only to ICT. In addition, the Group has been unable to find any evidence that the commission has been established; the Group has found no reference to the existence of the commission on the website of the Ministry of Federal Education and Professional Training, nor has the Group been able to obtain any annual reports or strategic plans. The relative lack of civic education in Pakistan has been identified by the Aurat Foundation as a significant gap in Pakistan's education system.[125] The relative lack of civic education is compounded by the low literacy levels reported in Pakistan.

Recommendation:

- The National Assembly should pass a federal equivalent of ICT's National Civic Education Act 2018 that establishes a federal commission on civic education. Such a commission should be appropriately resourced to provide education to citizens on their democratic and human rights. Such a commission should also co-ordinate closely with the ECP and relevant CSOs on the provision of voter education.

CSO engagement with the ECP

In its Strategic Plan 2018–2023, the ECP noted it had improved the methodology of its 2018 post-election review to be more inclusive, including engaging CSOs in focus group discussions, with these inputs incorporated into the Strategic Plan by the Strategic Planning Committee. The ECP also noted the importance of engaging CSOs under two strategic pillars. Under the Legal Framework pillar, the ECP stated its intention to engage CSOs and other stakeholders to increase understanding of, and ensure compliance with, the legal framework. Under the Voter Registration and Participation pillar, the ECP noted the value of 'cooperative initiatives' on voter registration in order to increase registration figures, particularly among women, youth and PWD voters.[126]

The Group also notes the establishment of the Gender and Disability Electoral Working Group (GDEWG), a platform of around 100 organisations focused on women, PWDs, transgender persons and minorities that analyses and makes recommendations for enhancing their participation in the electoral process. The GDEWG also works with District Voter Education Committees (DVECs) and Provincial Project Co-ordination Committees to develop and conduct gender-sensitive voter information campaigns at the grassroots level.[127] As such, the ECP has demonstrated considerable commitment to engaging CSOs on inclusion issues. The Group commends the ECP for initiating this model, which draws its strength from its ability to reach all parts of the country via engagement of local CSOs that will be attuned to local challenges. This model should be continued in future elections.

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[123] www.dawn.com/news/1811055

[124] https://na.gov.pk/uploads/documents/1614147524_470.pdf

[125] www.af.org.pk/activity-detail.php?nid=311

[126] https://ecp.gov.pk/storage/files/1/dow3.pdf

The ECP also engaged CSOs on voter awareness campaigns at the grassroots level and conducted around 200 awareness sessions in the 12 months prior to the election. Separately, the ECP also held awareness workshops to sensitise CSOs to the Code of Conduct for Domestic/National Observers, holding 75 of these in the same time period.

There are also 134 ECP DVECs across the country, which operate in co-ordination with Provincial Voter Education Committees and the Media, Communications and Outreach (MCO) Wing of the ECP. As part of this process of engagement, the ECP vetted voter education materials produced by CSOs, making corrections where necessary. As such, the ECP has demonstrated a clear commitment to engaging CSOs on voter education, voter registration and the Domestic Observer Code of Conduct.

There are, however, two areas where there may be scope for increased co-operation with CSOs. The 2018–2023 Strategic Plan envisaged an improved communications plan and associated protocols. As discussed in more depth in Chapter 6, the days and weeks following election day included extended periods where a number of critical questions remained unanswered, including in relation to the failure of the Election Management System (EMS) and delays to the tabulation and announcement of results. While the media will remain the ECP's primary stakeholder in the development of any communications strategy, CSOs such as FAFEN and TDEA are also important stakeholders, given their expertise in democracy and elections. As discussed in Chapter 6, election day and post-election communications protocols should be reviewed to ensure timely appraisal of CSOs and the media.

Second, in accordance with key principles of election cybersecurity, the increased adoption of electoral technologies in the results transmission process should ideally include a concomitant degree of co-operation with civil society and academia on testing (including penetration testing) of such technologies. The Group makes a recommendation in this regard in Chapter 6.

Recommendation:

- The ECP should review its election day and post-election communications protocols in order to ensure timely updates to the media and CSOs.

Women

Context of women's empowerment in Pakistan

In March 2020, the Committee on the Elimination of Discrimination Against Women (the CEDAW Committee) expressed concern that the devolution of powers as a result of the 18th Amendment[128] to the Constitution had presented governance challenges in the integration and co-ordination of policies for the advancement of women. The Committee also expressed concern about reports that women human rights defenders and political activists were frequently subjected to reprisals, harassment and threats.[129]

The Committee also expressed concern that women remained 'underrepresented in political and public life, especially in decision-making positions and in provincial and local administrations'. The report also noted an underrepresentation of women in conflict prevention, peacebuilding, transitional justice and national reconciliation processes.[130]

The Committee also noted the stark gender pay gap, the very low labour force participation rate for women, the high concentration of women in the informal economy, the very low level of women in senior and middle management positions and the very low percentage of women entrepreneurs.[131] In its response to the Committee's Concluding Observations in April 2023, Pakistan stated that it had taken several steps towards women's empowerment. It had amended the Protection Against Harassment of Women at the Workplace Act of 2010 to broaden the definition of employees to include those at non-conventional workplaces. Pakistan also noted that parliament had enacted the Anti-Rape (Investigation and Trial) Act 2021 and the Enforcement of Women's Property Rights Act 2020 to strengthen legal deterrents against rape and acts depriving women of their property rights.[132]

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[127] https://ecp.gov.pk/initiative-by-gender-and-social-inclusion-wing

[128] The 18th Amendment, passed in 2010, gave devolved legislative and financial powers to provincial assemblies. See www.na.gov.pk/uploads/documents/1302138356_934.pdf

[129] https://documents.un.org/doc/undoc/gen/n20/062/12/pdf/n2006212.pdf?token=DJRtmtMuXikoI3nHh3&fe=true

[130] Ibid.

During the Universal Periodic Review (UPR), while Pakistan noted that the federal Domestic Violence (Prevention and Protection) Bill 2021 was still before parliament, it noted that similar acts had been passed at the provincial levels in Sindh, Balochistan and KP.[133] Pakistan stated its intention to continue taking tangible steps to reduce high rates of violence against women and girls, as well as to develop a strong policy and delivery mechanism for the registration of women voters and their protection from violence and disenfranchisement at polling stations.[134]

The above conditions are reflective of broader socio-economic and cultural norms that present barriers to women's empowerment in Pakistan, which in turn extends to women's political participation and representation. The link between socioeconomic empowerment and their participation in public life, and the impact of such barriers on women's political participation, is articulated in CEDAW General Recommendation 23 on political and public life, which notes that "While democratic systems have improved women's opportunities for involvement in political life, the many economic, social and cultural barriers they continue to face have seriously limited their participation."[135]

As shall be discussed in this chapter, Pakistan has, in response to CEDAW Committee and UPR recommendations, implemented a number of amendments to electoral law aimed at increasing women's political participation and representation. However, there remains significant scope for further strengthening the legislative framework in this regard.

Women's voter registration and voter turnout

Pakistan has taken commendable steps to increase the participation of women in the electoral process. Notably, the ECP informed the Group that it had increased voter registration efforts targeting women, and that this had resulted in a closing of the gender gap from 12 per cent in 2013 to 7.7 per cent in 2024. The ECP informed the Group that, in the period between 2018 and 2024, 22.5 million voters were added to the electoral roll, with 12.5 million of these being women. At the close of the 2024 voter registration drive, the ECP informed the Group that approximately 46 per cent (59.3 million) of the eligible voters were women. While the national gender gap has reduced, ECP figures indicate it remained comparatively higher in Balochistan (12.3 per cent), KP (8.9 per cent) and Sindh (8.3 per cent).[136] Based on discussions with stakeholders, the Group understands that conservative social and cultural attitudes in Balochistan, KP and Sindh, compared with more liberal and metropolitan cities in Punjab, are at least part of the explanation for the differentials in the voter registration gap.

The ECP is to be commended for the various initiatives it undertook to address the gender gap and to create a more propitious environment for women's political participation more broadly. In relation to voter registration, this included the establishment in 2017 of a nationwide Women NIC (National Identity Card)/ Voter Registration Campaign in 116 districts across the country where the gender gap was higher than 10 per cent. From January to December 2023, the ECP also worked with UNDP and USAID to target women voters in Balochistan and Sindh who had lost NIC cards as a result of the floods. The programme reached approximately 80,000 women in total.[137]

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[131] Ibid.

[132] Information Received from Pakistan on Follow-Up Report to the Concluding Observations on Its Fifth Periodic Report, CEDAW/C/PAK/FCO/5, 17 April 2023. https://digitallibrary.un.org/record/4011840/files/CEDAW_C_PAK_FCO_5-EN.pdf

[133] Ibid.

[134] Ibid.

[135] www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom23

[136] https://ecp.gov.pk/storage/files/2/GSI/ECP%20Factsheet%20(2)%20(1).pdf

[137] UNDP presentation to the COG.

The Gender and Social Inclusion Wing undertook a series of initiatives aimed at increasing and supporting women's participation, including holding country-wide consultations on the development of its Gender Mainstreaming and Social Inclusion Framework. The ECP's GDEWG, described further up this chapter, provided a platform for the ECP and inclusion-focused CSOs to develop and implement strategies for engaging women and other marginalised groups in the electoral process. The ECP also held mock polls and dialogues with women in rural communities, and produced gender-specific voter education materials, including videos and documentaries.

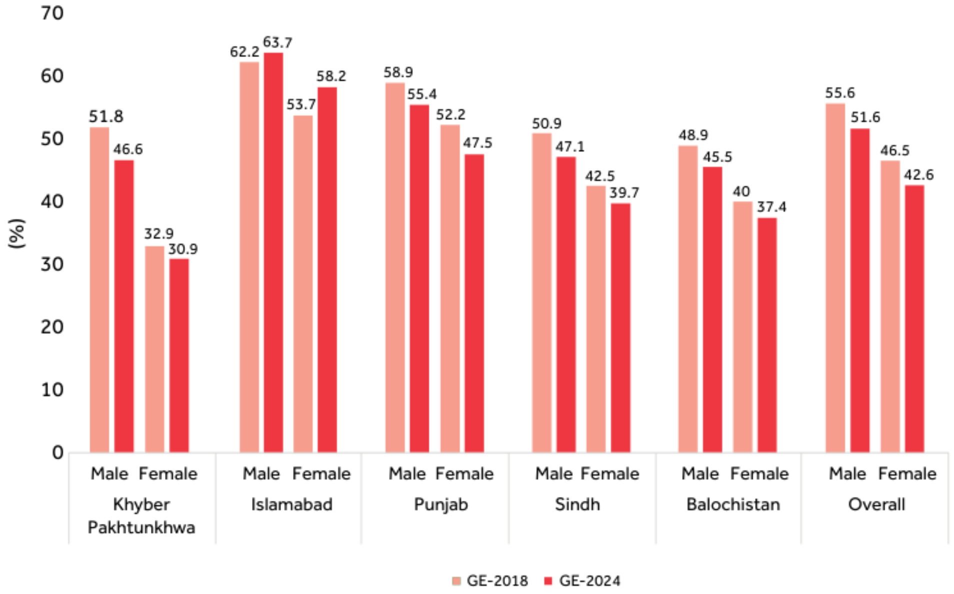
For election day, the ECP made efforts to provide an enabling environment for women voters. According to the ECP, it provided thousands of gender-sensitive training sessions to polling staff.[138] Out of the 90,675 polling stations across the country, 23,844 were women-only. This was an increase on the 21,330 women-only polling stations in 2018, owing to the expansion of the voter register in the intervening years. In combined polling stations, the ECP established women-only polling booths.

The ECP also established a hotline for women and other marginalised groups to file complaints about harassment, intimidation and voter suppression at polling stations – although the Group understands that complaints cannot be submitted anonymously. The Group also observed the enlistment of female POs and polling officials at women-only polling stations, and noted the designation of women as polling officials, party agents, citizen observers and security personnel on election day (discussed in Chapter 6). Further, the Group noted the assistance accorded to the elderly and to pregnant and nursing mothers on election day, although it noted a degree of inconsistency in the provision of such support.

The total turnout for the election, according to FAFEN, was 60.6 million, or 47.6 per cent. This was a sizeable decrease from the 52.1 per cent turnout in 2018. According to analysis by FAFEN, disaggregated data shows a turnout of 51.6 per cent for men and 42.6 for women. In its analysis, however, FAFEN noted that 10 constituencies failed to record disaggregated data.

A regional analysis of the data shows a reduction in women's voter turnout in every province except for ICT. The same trend is true for male voters. The data also shows that those regions with the lowest voter turnout of women (and men) on election day were more or less the same as the regions that recorded the lowest percentages of female (and male) registered voters, with ICT having the highest level of voter turnout

Figure 4.1 Gender disaggregated comparative turnout by region, 2018–2024



Source: FAFEN (2024)

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[138] The ECP places this figure at 26,000, although it does not state the time period in which these trainings took place. See https://ecp.gov.pk/initiative-by-gender-and-social-inclusion-wing

and Balochistan and KP having the lowest. Indeed, in KP there was a sharp drop in women's turnout, from 46.6 per cent in 2018 to just 30.9 per cent in 2024.[139] It is important to note that the reduction in women's voter turnout from 2018 follows the same trend as for men (albeit with lower starting percentages), thus suggesting that the factors leading to the decline in voter turnout were not necessarily gender-specific.

The Group commends the ECP's genuine efforts to increase women's political participation in the voter registration process, and its efforts to sensitise women in urban and rural settings through extensive voter education programmes. The Group also commends the ECP for its efforts to ensure the election day process was more inclusive, such as via the establishment of the complaints hotline.

Additionally, the Group acknowledges Section 91 (3) of the Elections Act, which provides for POs to file a report to the RO 'if he has reason to believe that women voters have been restrained from exercising their right to vote based on any express or implied agreement'.

The Group further notes that Section 9 (1) empowers, but does not require, the ECP to void an election on the basis of such reports, including if the total turnout of women voters is less than 10 per cent of the total turnout. Specifically, the provision states that "if, from facts apparent on the face of the record and after such enquiry as it may deem necessary, the Commission is satisfied" that the turnout of women is lower than 10 per cent, it "shall" order re-polling in the affected polling station(s). Yet, the 'Explanation' of the provision states the ECP "*may*" [italics inserted] declare polling void. Given that Section 9 (1) already requires the ECP to determine, to its satisfaction, that the turnout was lower than 10 per cent, it is unclear why the explanatory note does not similarly compel, rather than merely empower, the ECP in this regard. While the Group has no reason to doubt the ECP's intentions with regard to enforcing this provision, there may be benefit in amending the law to remove the unnecessary discretion conferred by the word "may" in the Explanation. The Group makes a recommendation further down this chapter in this regard.

This legal issue aside, according to analysis by FAFEN there were no constituencies in either the National or the Provincial Assemblies in which women's voter turnout was less than 10 per cent – the lowest was 18.8 per cent recorded in NA-13 in the KP city of Battagram.[140] The Group notes that, in the first elections in which this legal provision existed (the 2018 general elections), the ECP did conduct re-polling in two National Assembly constituencies in which women's turnout was lower than 10 per cent.

The above combination of legislative and administrative efforts to increase women's participation is laudable. However, the Group is concerned that these efforts were not sufficient to prevent a reduction in voter turnout generally, and women's voter turnout specifically, particularly in KP. In speaking with stakeholders, the Group identified a number of factors contributing to low and declining rates of voter turnout in this election – some of which apply to male voters as much as female voters, albeit to varying degrees. These include, but are not limited to:

- concerns about election day violence and/or terrorist incidents, including gender-based violence (women may also feel more vulnerable to the prospect of electoral violence, and therefore turn out in lower numbers);
- inclement weather conditions in some parts of the country, which could have affected travel to polling stations;
- a lack of awareness about election day processes (despite the ECP and civil society's efforts);
- voter apathy regarding the value of representative democracy under current conditions, or a degree of despondency about the 'fairness' of the electoral process; and
- cultural attitudes towards women's political participation.

Indeed, regarding this last point, which is inherently gendered, the Group is especially concerned by reports of declarations aimed at prohibiting women from exercising their right to vote.[141] Similar concerns were noted by the Group in 2018. It is not clear whether faith-based organisations could be subject to criminal law for seeking to intimidate women into not voting (e.g. under Section 503 of the Penal Code), but the Group regards such instances as serious matters of concern. In order to rid the process of such intimidatory tactics, such instances should, at the very least, be investigated to ascertain whether criminal law has been breached. The Group encourages the ECP to refer such instances to the Director of Public Prosecutions for thorough investigations to be conducted.

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[139] https://anfrel.org/wp-content/uploads/2024/02/FAFEN_GE-2024_Turnout_Analysis_Final.pdf

[140] Ibid.

[141] Ban in Adeena, a village in NA-20 in Swabi district (approximately 6,000 women in Adeena); Talagang district, Potohar region, PA-59, in Punjab (3,101 registered women voters in 4 polling stations).

It appears that a combination of political and cultural factors remain the greatest impediments to women's political participation. Ultimately, it is the responsibility of the three branches of government, as well as the broader panoply of political, societal and religious leaders, to demonstrate leadership in this area and cultivate the requisite political will to bring about genuine and sustainable change.

Recommendations:

- The ECP should continue its efforts to close the gender gap in the number of registered voters.
- In order to address instances of groups or actors attempting to disenfranchise women on polling day, the ECP should continue to work with CSOs and international donor organisations on the provision of gender-sensitive voter education that underscores the right of women to not only exercise their democratic right to vote but also do so without undue influence.
- The ECP should recruit and train more women to become POs, returning officers and security officers.
- The ECP should take greater efforts to ensure that POs and ROs record gender-disaggregated voter turnout on Form 45 and Form 47.
- In light of the growing female voter population, parliament should consider amending upwards the legal provision (Section 9 (1)) for re-polling where voter turnout fails to meet the 10 per cent quota of female voters.
- In order to provide greater clarity on the ECP's powers to implement Section 9 (1) of the Elections Act, parliament should consider amending the Act such that the word 'may' is replaced with the word 'shall'.
- The ECP should conduct sensitisation efforts especially in affected areas to ensure voters are aware of the recourse available to them where women are denied the right to vote.
- In instances where a group, organisation or public figure seeks to intimidate women into not voting, the ECP should refer such instances to the Public Prosecution Department for an investigation into whether such instances breach criminal law.

Legal framework for women's political representation

Article 51 (3) of the Constitution stipulates that 60 of the 366 seats (17.85 per cent) in the National Assembly shall be reserved for women, who are to be appointed via indirect proportional representation based on the number of general seats won by a political party. Parties must submit lists to the ECP prior to nomination day. Similarly, Article 106 of the Constitution stipulates that 132 of the 749 Provincial Assembly seats (17.62 per cent) are reserved for women, apportioned in a similar manner. Section 206 of the Elections Act requires that at least 5 per cent of the total number of candidates fielded by a party must be women.

Women candidates in the general elections

There were 17,816 candidates contesting for National and Provincial Assembly seats, out of whom 882 (4.95 per cent) were women. Of the 882 women, 570 were candidates in Provincial Assembly elections, while the remaining 312 were National Assembly candidates. Of the total of 882 women candidates for seats, 611 were independent candidates and 275 were affiliated with a political party.[142] The table below shows a breakdown of the women candidates by province.[143]

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[142] ECP data based on Form 33.

[143] General Elections 2024: 34 Political Parties Field Legally Required Women Candidates on General Seats - Free and Fair Election Network (fafen.org)

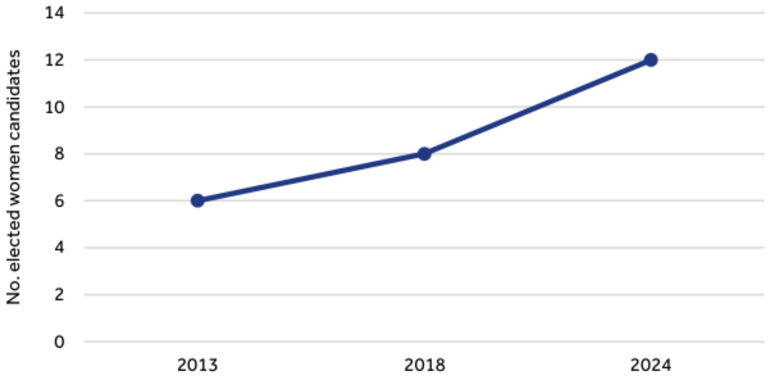
Table 4.1 Women candidates for National Assembly and Provincial Assembly general seats on party tickets as a share of total number of party ticket candidates (excludes independent candidates)

Province	Number of parties	Total number of candidates	Female candidates	Share
National Assembly	94	1,872	93	4.97%
Punjab Provincial Assembly	70	1,878	59	3.14%
Sindh Provincial Assembly	50	948	62	6.54%
Balochistan Provincial Assembly	37	533	19	3.56%
KP Provincial Assembly	44	806	47	5.83%
TOTAL	N/A	6,991	187	2.67%

Source: FAFEN

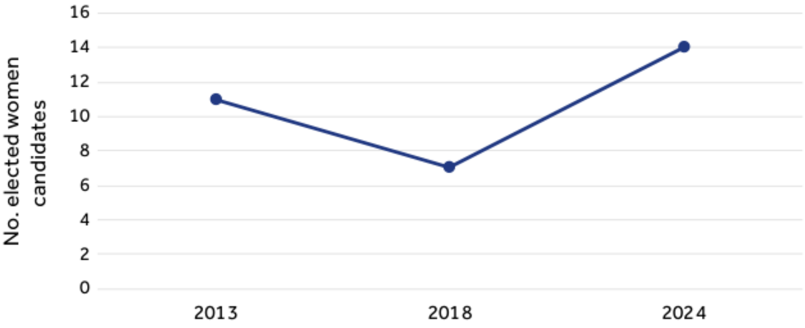
Statistically, the 5 per cent legal provision can only practicably apply to those political parties that field at least 20 candidates. Of the 111 political parties contesting the election, only 35 fielded 20 or more candidates. Of 111 political parties contesting the election, the ECP confirmed that 12 parties failed to ensure the 5 per cent quota for women candidates. The ECP confirmed that show cause notices had been issued to these parties and cases were, as of late October 2024, being heard by the Commission. The Commission informed the Group it would take appropriate action under the law.[144]

Figure 4.2A Number of elected women candidates to national assembly general seats, 2013–2024



Source: ECP (2024)

Figure 4.2B Number of elected women candidates to provincial assembly general seats, 2013–2024



Source: ECP (2024)

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[144] ECP correspondence with the Group.

Of the 312 women candidates for National Assembly general seats, only 12 were successful. While this represents a doubling of successful candidates since 2013, this figure is still far below the CEDAW target. In terms of party representation, five of the successful candidates vied as independents, four were PML-N members and two were from the PPP.

At the Provincial Assembly level, of the 187 women candidates, 14 were successful. This is a significant improvement on 2018, but once again falls far below the CEDAW target.

Aside from Section 217 (1), neither the Elections Act nor the Election Rules appear to stipulate what the sanctions are for parties in violation of this provision. While noting the Commission's confirmation that show cause notices had been issued to 12 defaulting parties, the Group is concerned by the slow pace of action taken by the Commission.

It should be noted that all political parties are required to complete a declaration stating that their lists apply with the Act. The Aurat Foundation notes that in 2018 all parties achieved the quota. This suggests that the lack of adherence to this quota cannot be explained by lack of awareness of its existence. Nonetheless, there is scope for the ECP to work with political parties to re-sensitise them to the importance of this legal provision.

Recommendations:

- The ECP should work with political parties to re-sensitise them to the importance of the 5 per cent quota on women candidates.
- The ECP should ensure it takes timely action against parties that fail to meet the 5 per cent quota of female candidates as required by law, and publish a list of said parties.

The Group commends the political parties that met and at times surpassed the 5 per cent female candidate quota. However, the Group notes that this is itself a low bar. Currently, Pakistan's electoral law leans heavily on the use of reserved seats in order to increase the number of women in parliament, and even here the percentages fail to meet the CEDAW recommended target of 30 per cent. Pakistan's lawmakers may wish to consider a number of options in this regard. In the first instance, the 5 per cent quota should be increased. Beyond this, the Group recommends that the government and the National Assembly consider adopting measures and creating enabling conditions that empower women to contest in general and provincial elections through direct elections.

Recommendations:

- In order to enhance women's political representation in line with Pakistan's commitments under CEDAW, parliament should consider a legislative amendment to increase the 5 per cent quota for women candidates.
- The government and the National Assembly should consider a legislative amendment to increase the current quotas for the representation of women in parliament to 30 per cent, in line with CEDAW's recommended target.
- The government and the National Assembly should consider adopting measures and creating enabling conditions that empower women to contest in national and provincial elections and participate in parliament through direct elections.

The Group was informed that it is common practice among political parties to field women candidates in constituencies they expect not to win. Additionally, the Group was informed that access to political party nominations tended to be based upon dynastic connections and/or socio-economic status. This brings into question the degree to which candidate nomination processes within political parties are 'transparent and democratic', as required by Section 206 of the Elections Act.

The Group was informed by the Commission that the latter had issued show cause notices to 22 parties for failure to adhere with the provisions of Section 206, and that these cases are still before the Commission. This includes the 12 parties who failed to adhere to the 5 per cent women candidate quota, and a further 10 parties "who have not submitted details of their nomination" to the ECP.[145] While commending the ECP for issuing said notices, the Group repeats its concern regarding the length of time taken to dispose of these cases.

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[145] ECP correspondence with the Group.

The Group does not wish to be overly prescriptive with regard to the manner in which candidates for political parties are selected. However, the reality is that the current status of women's political representation in Pakistan requires significant attention. If there is a need for political parties to reassess the candidate nomination process in order to provide greater opportunities to women, such a reassessment is more likely to bear fruit if senior positions within political party executives are occupied by women who would be able to spearhead such reform processes. In noting the observations of the CEDAW Committee's March 2020 report and the World Economic Forum's 22023 Gender Gap Index,[146] both of which noted a lack of women in decision-making positions in public life, the Group recommends that political parties take concrete steps to ensure women are placed in senior positions in political party executives.

Recommendations:

- Political parties should ensure that women are given senior decision-making positions within political party executive structures. Political parties may also wish to consider reserving certain positions within party executives for women.
- Political parties should review their processes for candidate nomination to ensure a greater number of women candidates are selected to contest general seats viewed as competitive by the party leadership.
- Political parties should invest in leadership training for women in order to nurture a new generation of female leaders, particularly women who are of modest means, who are not historically connected to a political party or who are from underrepresented backgrounds.
- In order to expand the pool of talented women with a demonstrated commitment to public life, political parties should consider a significant reduction in candidate nomination fees for women seeking to contest general seats.

The Group notes that Section 93 (2) of the Election Rules stipulates that, if a nomination paper of a woman or a non-Muslim candidate for a reserved seat is rejected, the associated nomination fee is refundable to the candidate. This is a positive provision, which the ECP may consider adopting for women candidates contesting general seats. Alternatively, the ECP could consider a discount on the candidate nomination fee for women.

Recommendation:

- The ECP should consider additional measures to enhance women's political representation as candidates, such as reducing candidate nomination fees for women candidates seeking to contest general seats, or extending refunds for rejected nomination papers to general seats.

The Group also notes the findings of the World Economic Forum Gender Gap Index 2023, which ranked Pakistan 126 out of 146 countries in terms of women in ministerial posts. In order to increase women's political representation in the executive, Pakistan may wish to consider some form of quota system for a more equitable ministerial appointment process for women.

Recommendation:

- The government and the National Assembly may wish to consider adopting measures to increase the number of women appointed to ministerial positions.

The Group notes with concern that female candidates were not always able to campaign freely. The Group further notes that, in some instances, female candidates fell victim to online hate speech including trolling and doxing. This is elaborated on in Chapter 5.

Youth

Participation, competition and inclusiveness of all eligible citizens in the electoral process are some of the key pillars of democracy and democratic elections. Youth in Pakistan form the largest age cohort of the voting population, and their inclusion and participation in elections and the electoral process is critical to entrenching a belief in the value of representative democracy.

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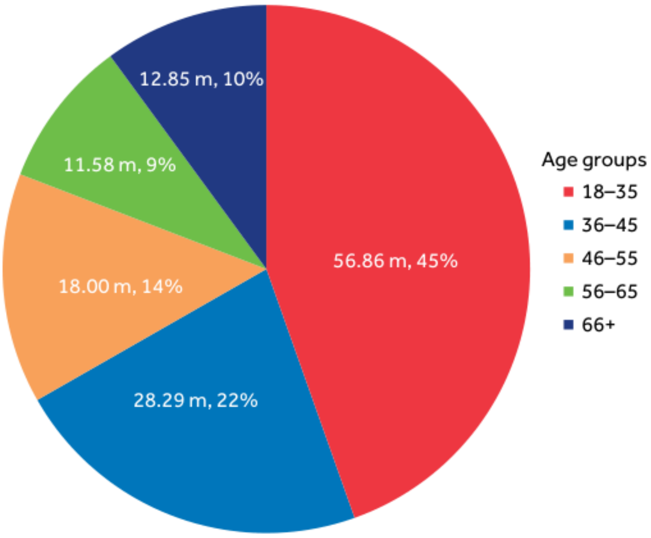
[146] www.weforum.org/publications/global-gender-gap-report-2023/ (p. 293).

Registered voters by age distribution

According to the 2017 UNDP National Human Development Report, Pakistan has a high youth population, with 64 per cent of the total population being below the age of 30.[147] According to the ECP, there were 58.1 million (44.7 per cent) registered voters in the 18–35 age bracket in 2024,[148] an increase from 46.4 million in 2018 (43.8 per cent).[149]

Figure 4.3 Age disaggregated voter registration figures



Source: ECP (2024)

It is noteworthy that, of the 56.86 million registered youth voters for the 2024 elections, 22 million were newly registered.[150] The importance of the youth vote and its significance in the electoral process can be seen in PTI's success in 2018, which was in part attributed to support by young voters.[151]

Youth candidates

Articles 62, 63 and 113 of the Constitution stipulate the qualifications and disqualifications for those wishing to stand for election to the National Assembly and Provincial Assemblies and the Senate. Aspirants for the National Assembly and Provincial Assemblies must be 25 or older, while aspirants for the Senate must be 35 or older. The current legal framework does not include any temporary special measures for enhancing youth representation in elective positions.

The ECP confirmed it does not collect data on how many candidates for the National Assembly and Provincial Assemblies are between the ages of 25 and 35, nor the number of successful candidates according to age, since it is not legally required to do so. As such, the Group does not have data in this regard for the 2024 elections. According to PILDAT, for the 2018 elections the percentage of youth candidates for National Assembly general seats was 15.49 per cent, while the average number of youth candidates for Provincial Assemblies was 22.29 per cent. The percentage of successful National Assembly youth candidates in 2018 was 1.16 per cent, while the percentages for successful youth candidates in Provincial Assemblies ranged from 3 per cent in Punjab to 14.48 per cent in KP.[152]

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[147] https://hdr.undp.org/content/unleashing-potential-young-pakistan
[148] https://ecp.gov.pk/electoral-rolls
[149] https://ecp.gov.pk/storage/files/3/03-ECP%20Annual%20Report%202018.pdf (p. 22).
[150] https://pildat.org/wp-content/uploads/2023/12/PILDAT-TBS-Youth-Report-English.pdf
[151] www.undp.org/sites/g/files/zskgke326/files/migration/pk/DAP-Volume-7-Empowering-our-Youth-English-version-11.pdf
[152] https://pildat.org/wp-content/uploads/2023/12/PILDAT-TBS-Youth-Report-English.pdf?

Figures from PILDAT from the 2018 election showed that the share of party tickets awarded to youth candidates was lower among the larger parties (PPP 18 per cent; PTI 16 per cent; PML-N 13 per cent) compared with the relatively smaller parties (Tehreek Labbaik Pakistan 36 per cent; National Party 20 per cent). Were similar figures to have been replicated in the 2024 elections, such a statistic would suggest that youth are squeezed out from obtaining party tickets in larger parties, thus limiting their ability to achieve parliamentary representation.

Recommendations:

- The ECP should record and publish statistics on the number of youth candidates for the National Assembly and Provincial Assemblies, as well as statistics on the number of successful youth candidates.
- The government and the National Assembly should consider temporary special measures, via amendments to the legal framework, to increase youth representation, such as the allocation of reserved seats.
- The ECP should consider measures to enhance youth representation, such as a reduction in candidate nomination fees for youth aspirants or refunds of nomination fees for youth candidates if their nomination paper is rejected.

Youth engagement with political parties

Youth make up a vibrant human resource that, given the opportunity, can contribute immensely to the development of a country. Indeed, given Pakistan's population 'youth bulge', the long-term health and vibrancy of the country's representative democracy depends on Pakistan being able to ensure its youth are engaged, enthused and adequately represented within the political sphere. Below is a very brief summary of the engagement of the youth by the three largest parties.

PML-N

Following the appointment of Shehbaz Sharif as Prime Minister in April 2022, the PML-N government announced a Youth Programme containing a raft of policies aimed at improving the economic and employment prospects of Pakistan's youth.[153] In focusing on economic empowerment, this set of policies did not appear to envisage much in terms of enhancing youth political engagement. The party's manifesto was similarly focused on youth economic empowerment; it did include a promise the deliver 'representation in parliament, provincial assemblies and local governments' but did not expand beyond this.[154] While the party has a youth wing, PML-N's website does not appear to list any youth among the party's executive leaders.[155] It is not clear whether the party's constitution includes a provision establishing a youth wing. It is also not clear the degree to which the youth were able to contribute to the development of the party's manifesto or were part of the executive's decision-making processes.

PTI

PTI's most visible engagement of youth can be seen in its cultivation of youth support via social media, a strategy that some regard as having been pivotal to the party's victory in the 2018 elections, and which the party has sought to maintain since then. Indeed, PTI's youth wing is active on social media, and PTI continues to have a large youth following in many parts of the country. Although the party's constitution does not explicitly establish a youth wing, it is heavily implied that such a wing is one of a number of critical wings, alongside a labour and women's wing.[156] What is less clear is the degree to which the youth wing is engaged substantively in party activities such as the formation of policies or the development of the party's manifesto, or in campaigning for youth candidates. The youth wing webpage appears to be lacking in substantive policy materials.[157]

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[153] https://pmlnyw.com/

[154] https://pmln2024.com/wp-content/uploads/2024/02/PML-N-MANIFESTO-2024-ENG-1.pdf

[155] https://pmln.org/office-bearers/leadership/

[156] PTI Constitution. https://drive.google.com/drive/folders/11nNm6sIOobICqMwgKyR-f1mpK2tgLNit

[157] https://insaf.pk/wing/youth-wing

PTI's manifesto was behind a paywall on the party's website, which may have limited the number of people able to view it. In a version provided to the COG, however, the Group notes that the manifesto included a number of promises on democratic, governance and electoral reform, including a pledge to reduce the voting age to 16, along with general statements of intent to 'ensure active youth representation in decision-making bodies'.[158] It is not clear which decision-making bodies this refers to – that is, whether this includes decision-making positions within the party, and if so the degree to which this has been enacted. Based on PTI's 'Leadership' page of its website, there do appear to be a small number of relatively young individuals among the roughly 40 people listed.[159]

PPP

The PPP manifesto included some policies, grouped under the rubric of 'the Youth Card', aimed at empowering youth economically, but none focused on youth political representation and participation. The PPP's manifesto included some areas of constitutional and democratic reform, although these did not include any policies aimed at increasing youth political representation or participation. There do not appear to be any youths among its leadership, though this could be because the party website provides scant information on its leadership structure as a whole.

Though the above picture is somewhat mixed, when taken together with statistics on youth candidates and youth representation, an image emerges that would appear to substantiate PILDAT's assertion in a 2023 report on youth participation that, 'In Pakistan's political domain, youth participation is often limited to registration as voters, exercising the right to vote, political party membership, contesting local provincial or parliamentary elections, canvassing support for political parties, and other political activities.'[160] That is to say, youth lack proportionate representation within the National Assembly and within the decision-making and policy development processes within political parties.

Recommendations:

- Political parties should include youth in a meaningful way in the development of all aspects of party manifestos and policies, not just in the development of policies directly targeted at youth.
- Political parties should take more steps to appoint youth to decision-making positions within parties.
- Political parties should award significantly more party tickets to youth candidates. This would increase youth representation, but also encourage youth non-voters who wish to vote for their cohort to turn out to vote on election day.
- Political parties should reduce party candidate nomination fees for youth candidates.
- Political parties should invest in mentoring and leadership programmes for youth members in order to cultivate the next generation of political leaders. Core civic and democratic values should be mainstreamed throughout these programmes.

Youth voter turnout

Voter apathy is a dilemma for democracy, as constituents who do not vote cause a distortion in representation because the opinions of such groups are not reflected in the outcome of the elections. This state of affairs implies that constituencies or electoral cohorts with low voter turnout may be neglected in policy-making and political decisions.

In Pakistan, youth are one such group that has historically under-participated in elections in terms of voter turnout. A 2023 PILDAT report is worth quoting at length:

> *This under participation has resulted in less youth focussed programmes and development plans. Being the majority voting population, the youth deserve to be represented at all levels of governance to have*

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[158] PTI Manifesto, p. 116.

[159] https://insaf.pk/leadership?title=

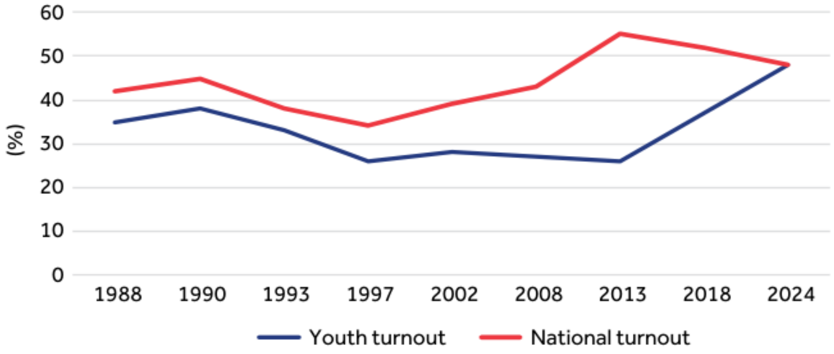
[160] https://pildat.org/wp-content/uploads/2023/12/PILDAT-TBS-Youth-Report-English.pdf?

> *their opinion and voices heard and respected in order to impact public policy. If young people stay away from voting, their opinion and pleas are ignored. A low-level interest in elections and public affairs by the youth may be construed as lack of confidence in the democratic system; a scenario that enhances their vulnerability to undemocratic and radical ideologies.*[161]

Gallup exit polls after the 2018 elections reported relatively low youth turnout, with only one in three youth voting.[162] Similarly, PILDAT's estimated averages for elections from 1988 to 2018 placed youth turnout 13 percentage points lower than the national average of 44 per cent (in 2018, youth turnout was 37 per cent and national turnout was 52 per cent).[163] Gallup interviews with young voters found that 37 per cent of those interviewed were not aware of their registration as voters or had not registered; 20 per cent asserted voting would not change anything; and 17 per cent did not like any of the candidates or parties.[164] A youth opinion survey conducted by PILDAT's Youth Parliament of Pakistan also suggested high levels of political scepticism and disillusionment, leading to voter apathy, with youth respondents noting that young voter turnout owed to poor performance of politicians (42.3 per cent), low level of trust in political parties (42 per cent) and poor performance of the ECP (37 per cent).[165]

However, in 2024 there was a stark shift in voter turnout among youth – likely as a result of significant youth support for one particular party. Exit polling of almost 4,000 voters by Gallup Pakistan found that youth turnout had increased markedly, particularly among first-time voters. Indeed, for the first time in at least three decades, youth voter turnout was on a par with national voter turnout (48 per cent).

Figure 4.4 Youth turnout versus national turnout per election, 1988–2024



Source: Gallup Pakistan (2024)

Gallup found that, 'Economic prosperity has played a pivotal role in shaping this political metamorphosis. The newfound class of individuals, having tasted the fruits of a better standard of living, now seeks more than just material gains. Their aspirations extend beyond economic growth; they yearn for a share in the political pie, reshaping the political landscape in unforeseen ways.'[166] Gallup also found that party loyalty as a reason for voting had increased 8 per cent from previous elections, while those voting for reasons of patronage had fallen by the same percentage.

Additionally, the number of voters not voting in line with their Biradari also increased, from 59 per cent to 64 per cent. While there may be complex and nuanced reasons for this shift, it is possible this might be reflective of a shift towards political allegiances based on policy rather than kinship, caste or patronage. If so, such a shift should be regarded as a healthy development in Pakistan's democratic progression.

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[161] Ibid.
[162] https://gallup.com.pk/wp/wp-content/uploads/2021/12/Youth-Voting.pdf
[163] https://pildat.org/wp-content/uploads/2024/01/MissingYoungVotersinPakistan_2024.pdf
[164] Ibid.
[165] Ibid.
[166] https://gallup.com.pk/wp/wp-content/uploads/2024/03/Gallup-Pakistan-Exit-Poll-Press-Release-Website-5.pdf

Conversely, the Group was informed by some stakeholders that poor economic prospects for youth, rather than bright economic prospects, were one of the main factors behind the increasing youth vote, as they sought to vote for political parties that could improve these prospects. According to a 2020 report by Development Advocate Pakistan, supported by UNDP, youth unemployment remains high, with 31 per cent not in education, employment or training. According to UNDP, illiteracy among youth stands at almost 30 per cent, and 77 per cent of youth have been forced to quit education to work for financial reasons.[167]

Engagement by civil society and INGOs

A number of national CSO and INGOs played an important role in engaging youth ahead of the election. The activities of FAFEN/TDEA ahead of the election are highlighted further up this chapter. PILDAT, meanwhile, partnered with UNDP and the ECP to conduct '15 outreach activities aimed at enlightening the youth on the significance of the electoral process and their participation'. These outreach activities provided a platform for educating youth about the importance of youth participation in representative democracy and aimed to inculcate a spirit of civic engagement.[168] These efforts are to be commended, as they are an essential tool for increasing awareness among youth on the role they must play in shaping the democratic landscape.

In 2007, PILAT launched the first ever Youth Parliament in Pakistan, aimed at meaningfully engaging youth in democratic decision-making through building leadership skills, critical thinking and fostering critical knowledge.[169] Through the 17th Youth Parliament in January 2023, a bill was passed to revive student unions in Pakistan as part of their commitment to build a more inclusive and democratic society and to encourage better structured and informed discussion between student unions, political parties and the ECP.

The International Foundation for Electoral Systems (IFES) also conducted youth outreach campaigns in universities, to maximise youth understanding and participation in the electoral process.

Engagement by the ECP

Although youth were not listed as a priority area in the ECP's Strategic Plan 2018–2023, the ECP undertook several youth-focused electoral awareness initiatives. These included over 1,950 voter awareness sessions in educational institutes, the engagement of over 2 million people through the Pak Voter Web portal and the use of radio to reach a wider pool of voters.[170] The ECP also engaged universities through its 134 DVECs. The ECP also undertook a significant amount of voter education via social media channels.

However, PILDAT has identified a number of areas where the ECP could take further steps to expand youth-focused voter education and increase youth voter registration and turnout.[171] The Group agrees with the majority of PILDAT's recommendations, and echoes some of these below:

Recommendations:

- In order to build on the ECP's admirable efforts to engage youth, the ECP should include youth as a priority area in its next strategic plan to give policy backing to initiatives already undertaken towards the inclusion of this population in the electoral process.
- The ECP should consider replicating the model used for the GDEWG for youth, and use this model to hold more consultative meetings with youth groups, CSOs, political parties and other interest groups to identify and resolve issues that hinder youth participation in the electoral process.
- The ECP should be commended for publishing disaggregated voter data on male and female voter turnout. As part of broader efforts to identify reasons for low youth voter turnout, and in order to better inform legislative and policy changes, the ECP should expand the categories of disaggregated data to include age and disability, as well as sex.

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[167] www.undp.org/sites/g/files/zskgke326/files/migration/pk/46e252414fe32d2bc312a1d6d1c9fb84e581d4ad1a152ec03b7501aa955ec7f4.pdf

[168] Ibid.

[169] https://youthparliament.pk/about-ypp/

[170] ECP presentation to the COG.

[171] https://pildat.org/wp-content/uploads/2023/12/PILDAT-TBS-Youth-Report-English.pdf? (pp. 18-19).

- In order to address low voter turnout among youth, the ECP should consider a number of methods to improve its youth voter education outreach. Such measures could include expanding voter education campaigns beyond higher education institutions; expanding its voter education campaigns in rural areas where illiteracy rates are higher, including by increasing the use of videos; ramping up the existing use of social media platforms; and ensuring youth representation on District Voter Education Committees (DVECs.

Persons with disabilities

During its UPR at the United Nations Human Rights Council in January 2023, Pakistan stated that parliament had enacted a law in 2020 to safeguard the rights of PWDs in line with the CRPD. As part of the UPR, the United Nations Country Team in Pakistan urged the government to implement the CRPD, specifically ensuring that PWDs had the right to acquire nationality and were not deprived of nationality arbitrarily or on the basis of their disability. It encouraged making the registration of all children with disabilities compulsory, imposing penalties on parents who failed to register children with disabilities at birth.[172]

Legislative and policy framework

Pakistan ratified the CRPD in 2011. Article 1 defines disability as 'those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others'.

Article 29 (a), which relates to participation in political and public life, stipulates that States Parties should ensure that voting procedures, facilities and materials are PWD-friendly, and that PWDs' rights to vote and stand for election are protected.

In line with Pakistan's obligations under the CRPD, the 2017 Elections Act and Election Rules introduced a number of provisions in relation to the rights of PWDs to participate in elections. The Act compels the ECP to take 'special measures' to register PWDs, and compels NADRA to expedite the issuance of CNIC cards for PWDs. Section 203 compels political parties to encourage PWDs to become members. Section 93 of the Act provides for PWDs to vote via postal ballot, with more detailed provisions set out in Sections 68 and 69, and Form 41 of the Election Rules provides for illiterate or infirm voters to vote by postal ballot.

On this last point, the Group understands that there was relatively low uptake of the postal ballot by eligible voters, including PWDs. According to some stakeholders with whom the Group met, this was because voters were not adequately informed about the process, and they consequently missed the deadlines to submit their applications to ROs. As such, while the Group commends the ECP's efforts to reach out to PWDs via voter awareness sessions and through the work of the GDEWG (of which more below), there is a clear need for additional efforts in this regard.

ECP efforts to include PWDs

In 2016, the ECP formed the GDEWG at the Islamabad and provincial level to collaborate with relevant stakeholders. CSOs, women representatives, PWDs, transgender persons and religious minority organisations are permanent members of this platform. More recently, the ECP expanded its Gender Wing to include PWD, transgender and other marginalised groups, with the new wing named the Gender and Social Inclusion Wing. The ECP stated in its October to December 2023 Newsletter that group meetings were held regularly at the offices of the provincial election commissions, with suggestions and feedback from members solicited and strategies developed to address the challenges faced by these communities in the electoral process.

Additionally, the ECP stated it had conducted more than 2,000 voter awareness sessions for PWDs, women, youth and transgender voters since November 2022. On average, this works out to approximately one meeting per month per district. The ECP also established a Gender and Social Inclusion Helpdesk, which PWDs could call to request assistance or to report harassment or intimidation in relation to their electoral participation.[173]

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[172] https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/036/54/PDF/G2303654.pdf?OpenElement

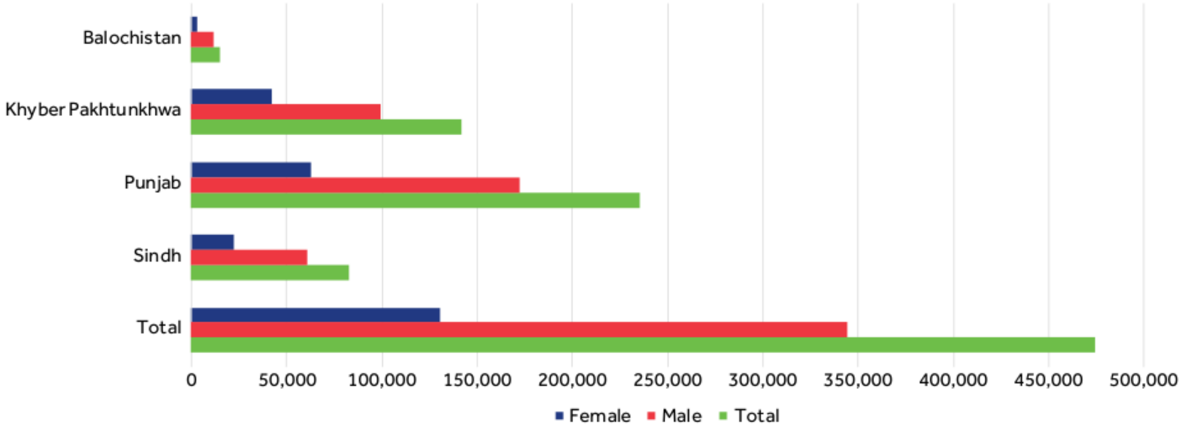
The ECP also noted that it had produced voter education materials in braille and 3D pictures, with targeted voter education materials disseminated to the district level through the GDEWG. That said, the ECP informed the Group that braille materials were of limited use because, regretfully, braille literacy in Pakistan is very low.

Despite some positive developments since 2018, the Group notes that further steps can be taken to ensure PWD voters are able to cast their votes without interference or inaccessibility, such as through the provision of sign language interpreters for hearing- and speech-impaired voters and braille ballot jackets for visually impaired voters.

The GDEWG is an important and useful platform that should be continued in future elections, and the voter awareness sessions, voter education materials and Helpdesk are all worthwhile endeavours for which the ECP is to be commended. However, as is shown below, despite these efforts, low levels of PWD voter registration and low uptake of postal ballots suggest additional efforts are required to increase PWD participation as voters.

According to a 2018 report by the Centre for Peace and Development Initiatives (CPDI), the total population of PWDs in Pakistan is 3,286,630, which includes 2,173,999 and 1,112,631 for rural and urban areas, respectively.[174] This amounts to approximately 1.32 per cent of the population. According to UNDP data, there were a total of 474,580 registered PWD voters, representing approximately 0.37 per cent of the 128 million registered voters.[175] As such, PWDs are under-represented among registered voters according to their share of the population.

Figure 4.5 Gender disaggregated PWD voter registration by region, 2024



Source: ECP (2024)

In addition, the Group notes that there was a significant difference in the proportion of PWD registered voters who are male versus those who are female, with this gap widest in Balochistan, where men accounted for 80 per cent of PWD registered voters. To bridge the gender gap, an intersectional approach to PWD registration may be necessary.

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[173] www.youtube.com/watch?v=Pe_0Tfwvyzs

[174] The Group was unable to obtain up-to-date figures on PWDs in Pakistan. The CPDI report can be found here: https://www.cpdi-pakistan.org/wp-content/uploads/2019/03/Electoral-and-Political-Rights-of-Persons-with-Disabilities-in-Pakistan-Situation-Analysis-Way-Forward.pdf

[175] https://ecp.gov.pk/storage/files/2/GSI/ECP%20Factsheet%20(2)%20(1).pdf

Recommendation:

- In order to establish the reasons for the low voter registration figures among PWDs – including the differential between women and men PWD registered voters - the ECP should work closely with PWD and women CSOs to conduct research in this area such that it can identify solutions and better target its outreach and registration efforts. Such solutions could include using PWD-targeted radio adverts to announce the date and venues of voter awareness sessions, at which PWDs could be assisted in registering to vote.

PWD candidates

The Group sought information on the total number of PWD candidates in this election, but was informed by the ECP that information on disability is not requested on nomination papers, therefore no such data is collected. The ECP may wish to consider ways of obtaining such information, such as by amending the nomination forms to request this information or by cross-checking nomination papers with disability data contained in CNICs.

Recommendation:

- The ECP should maintain and publish disaggregated data on PWD candidates. This data could help inform ECP, political party and other stakeholder efforts to increase PWD representation in the National and Provincial Assemblies.

Polling station accessibility

The Group commends the efforts of polling staff and relatives in assisting PWDs to access polling stations. The Group observed the presence of permanent and temporary ramps for PWDs in a number of polling stations, but noted that this was not uniform. The Group notes that, while most polling stations had signs for those with impaired hearing, and directions and instructions for the blind, a number of polling stations were inaccessible owing to a lack of ramps, signs for those with impaired hearing, and directions and instructions for the blind. The Group also notes the location of polling stations upstairs in some instances, which were inaccessible for PWDs. The Group also notes there were no transport facilities for PWDs facilitated by the ECP.

The ECP may wish to consider one administrative change that could assist with a number of these challenges. Based on data obtained from NADRA and via the voter registration process, the ECP could aim to assign PWD voters to a small number of polling stations within any given constituency, rather than assigning them across all polling stations based on their home address. This would allow for location of these polling stations to be selected based on their suitability and accessibility for PWDs. Additionally, using data from CNICs, the ECP would have an awareness of which types of disabilities voters assigned to these polling stations would have. This would allow for such polling stations to be equipped with the necessary services, such as sign language interpreters for the deaf. In order to foster a sense of inclusion, the ECP could consider employing PWDs as polling staff at these stations.

This approach could represent a more economical solution than seeking to assign sign language interpreters to each polling station. Polling staff at these stations could also be given additional training, and the ECP could work with CSOs on the transportation of PWDs to these specific polling stations. The Group appreciates that the ECP and CSOs may not be able to provide transport in all cases. As such, the Group appreciates that this solution may be better suited to urban constituencies rather than rural ones, where the distances PWDs would have to travel to the dedicated PWD polling station would not be significantly further than their typical polling station.

If such a measure were to be adopted, the ECP would need to provide clear stakeholder communication to political parties advising them of the purpose of this arrangement, so as to avoid any speculation or rumour regarding the ECP's intentions. In addition, if such a measure were to be adopted, the ECP should ensure that the polling stations to which PWDs are assigned are not changed so as to avoid possible disenfranchisement of PWD voters.

Recommendations:

- The ECP should consider assessing the feasibility of registering PWDs at a number of specially selected polling stations, in order to concentrate the provision of services for PWDs at these stations.
- The ECP should review all polling stations to ensure that all are equipped with ramps for wheelchair users and that polling stations are located on the ground floor so far as is possible.
- In order to iron out occasional inconsistencies in the provision of assistance, the ECP should increase its training to polling officials on how to assist PWDs in the voting process.
- The ECP should consider publishing disaggregated data on PWD voter turnout in order to inform policy decisions and to better inform the preparation and provision of facilities to support PWDs.
- The ECP should consider using braille jackets for ballot papers as a cost-effective alternative to braille ballot papers.

Transgender community

In May 2018, the National Assembly of Pakistan enacted the Transgender Persons (Protection of Rights) Act. This provides legal recognition to transgender persons and prohibits discrimination and harassment. It also places an obligation on local governments to provide for the welfare of the community and provides for the protection of the fundamental rights of transgender persons, such as inheritance, education, decent work, property ownership and participation in public affairs.[176]

Section 3 provides a transgender person 'the right to be recognised as per his or her self-perceived gender identity' and, upon turning 18, the right to register for a CNIC with NADRA.

Section 10 of the Act also provides for the right of transgender people to vote:

> *No transgender person shall be deprived of his right to cast a vote during national, provincial and local government elections: Provided that the access to polling stations shall be determined according to the gender declared on the CNIC of a transgender person.*

There are a number of CSOs in Pakistan dedicated to supporting and advocating for transgender rights, including the Gender Interactive Alliance (GIA), Da Hawwa Lur and TransAction. In Islamabad, a government-funded Transgender Protection Centre has been established for the provision of shelter, rehabilitation and medical and psychological care.[177]

Despite these positive developments, the Group is concerned that a number of issues facing transgender people in Pakistan may have had the effect of limiting their participation in the election, both as voters and as candidates.

Transgender community and the census

According to various media reports, the 2017 census recorded a total of 21,774 transgender people in Pakistan,[178] but independent estimates suggest the number is significantly more, with some estimates as high as 500,000.[179] For the 2023 census, analysis by Geo TV found that Sindh's transgender population had fallen on average by 35 per cent, with some districts showing a statistical drop of 74 per cent.[180] One CSO noted that NADRA had registered just 165 transgender individuals. With Pakistan's population as a whole having risen by approximately 17 per cent since the previous census, it seems unlikely that the apparent decrease in the transgender population is reflective of reality.

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[176] https://translaw.clpr.org.in/wp-content/uploads/2018/12/Transgender-Persons-Protection-of-Rights-Act-2018.pdf

[177] https://documents.un.org/doc/undoc/gen/g22/581/81/pdf/g2258181.pdf?token=Xuy1Oq7BxoWqLcgGW3&fe=true

[178] www.app.com.pk/national/the-6th-census-counts-21774-transgender-persons/; www.geo.tv/latest/487921-a-transgender-blind-census

[179] www.reuters.com/article/idUSKBN14T1XK/

[180] www.geo.tv/latest/487921-a-transgender-blind-census

While the census figures on their own do not affect the ability of transgender people to register for CNICs (and consequently register to vote), the apparent undercounting of this demographic may be reflective of a broader societal marginalisation of this group, which in turn affects their ability to participate fully in elections and in public life. Indeed, the Group was informed that transgender individuals continued to face marginalisation in their communities.

Voter registration

Although the census undercount may not itself have affected voting rights, these rights were later directly affected by a court decision. In 2022, the Transgender Persons Act was criticised by some political parties, eventually resulting in the Federal Shariat Court of Islamabad ruling in May 2023 that Sections 2 (f), 3 and 7, which relate to gender identity, the right to self-perceived gender identity and the right to inheritance, do not conform to Islamic principles. As a function of law – specifically, Article 203D of the Constitution – the Court's ruling resulted in the automatic and immediate nullification of these sections in the Act.[181] As a result, for four months, transgender persons were unable to register for CNICs under the 'X' identity provided for transgender persons.

Absence of a CNIC also meant that transgender people were unable to register to vote. In late September 2023, as a result of a petition filed with the Supreme Court, NADRA resumed the issuing of CNICs to transgender individuals. Voter register was open until 28 October 2023. The Group is concerned that, given the one-month gap between the resumption of issuance of CNICs with the 'X' category and the close of the register, some transgender people may not have been able to register in time and may therefore have been disenfranchised.

The 2018 COG report stated there were a total of 1,837 registered transgender registered voters. According to one news report, for the 2023 elections there were a total of 3,084 registered transgender voters, although these figures are unofficial.[182] Assuming these figures are somewhat accurate, while this is a significant increase on 2018, this still represents a small percentage of the total transgender population according to census figures – which itself is likely an undercount.

The Group is concerned that transgender voters also risk intimidation at polling stations. To remedy this, in advance of the election, Peshawar High Court instructed the ECP to establish transgender-only queues at polling stations.[183] In light of concerns around security, the Group regards this approach as laudable, and one that the ECP should consider adopting across the country in future elections. Yet, in a post-election petition, counsel for a transgender candidate in PK-81 informed the same Court that separate queues were not established by the ECP, contrary to the Court's orders.[184]

Recommendations

- Subject to the outcome of the Supreme Court petition on the upholding or revocation of Sections 2 (f), 3 and 7 of the Transgender Persons Act, PBS should review its census methodology to ensure the total population of transgender persons is accurately reflected.
- Pursuant to Section 48 of the Elections Act, NADRA and the ECP should review their methods of co-ordination to ensure expeditious processing of CNICs and voter registration of transgender persons.
- The ECP should work with transgender CSOs to encourage transgender citizens to vote, including through the production of targeted voter education materials.
- The ECP should consider including the issue of transgender participation within the GDEWG in order to give due attention to issues affecting transgender participation and representation.

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[181] www.amnesty.org/en/latest/news/2023/05/pakistan-revocation-of-rights-of-transgender-and-gender-diverse-people-must-be-stopped/

[182] www.thedailystar.net/opinion/geopolitical-insights/news/pakistan-elections-2024-widespread-exclusion-the-trans-community-3538386

[183] https://voicepk.net/2024/01/transgender-community-welcome-phc-directives-for-separate-polling-booths/

[184] www.dawn.com/news/1816343

Transgender candidates

The Group was unable to establish the exact number of transgender candidates contesting National Assembly seats for this election. Nomination forms do not request this information, so it is not collected by the ECP. Various media reports place the figure between three and five.[185] The 2018 COG report stated there were five candidates for that year's election. The five candidates vied as independents. Even judging by census figures, which are likely an undercount of the total transgender population, the number of transgender candidates is proportionally very low. There may be a multitude of reasons for this, but violence and intimidation towards transgender individuals in general, and electoral aspirants specifically, is likely one significant factor.

The Group is concerned by reports, both from stakeholders and in the media, of transphobic attacks against a candidate and their team, with this candidate suggesting transphobic attacks increased across the country after the ruling of the Federal Shariat Court.[186] The Group further notes the lack of presence of transgender candidates during the campaign period or as voters on polling day.

Several special procedure mandate-holders of the United Nations Human Rights Council raised concerns about attacks on transgender rights defenders and the alleged lack of due diligence in response to the reported attacks. The United Nations Country Team called upon the government to ensure access to justice by transgender persons and the prohibition of discrimination.[187]

Recommendation:

- The ECP should seek to increase public sensitisation of transgender candidates, who are still marginalised in their communities.

The Ahmadiyya community and religious minorities

During its UPR at the Human Rights Council in January 2023, Pakistan stated that it had constituted the National Commission for Minorities to protect and promote minority rights. It also established a minorities' welfare fund for development initiatives and the maintenance of minorities' religious sites. During the UPR, Pakistan also accepted a recommendation to eradicate the forced conversion to Islam of women and girls belonging to religious minorities.

The UPR noted alleged enforced disappearances, arbitrary arrests, acts of torture and mistreatment of, and what appeared to be arbitrary legal proceedings against, a number of individuals, including several human rights defenders. The 2022 UPR Report noted that a Bill on enforced disappearances had been tabled in parliament. At the time of the election, the Bill had been passed by the National Assembly and had subsequently been returned to the National Assembly by the Senate with some amendments, and so was not law by the time of the election.[188]

Religious discrimination and persecution, including violence, is a serious human rights issue in Pakistan. This includes the Ahmadiyya community, who were officially declared as non-Muslim by the Government of Pakistan under the Second Amendment to the Constitution in 1974. Since then, a number of laws have been passed that place either direct or *de facto* limitations on the Ahmadiyya community's enjoyment of fundamental civic and political rights, including freedom of association, freedom of assembly, freedom of speech and the right to vote in elections.

Legal framework

In 1974, Section 260 of the Constitution was amended to define Ahmadis as 'non-Muslim'. A decade later, Ordinance XX was passed. This made amendments to Section 99-A and the Second Schedule of the

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[185] www.voanews.com/a/transgender-candidate-hopes-to-make-history-at-pakistani-polls/7469730.html; www.aljazeera.com/news/2024/2/5/pakistan-elections-2024-by-the-numbers

[186] www.voanews.com/a/transgender-candidate-hopes-to-make-history-at-pakistani-polls/7469730.html

[187] https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/036/54/PDF/G2303654.pdf?OpenElement

[188] https://tribune.com.pk/story/2452597/bill-on-missing-persons-never-went-missing-senate

Code of Criminal Procedure 1898, and Sections 298-B and 298-C of the Pakistan Penal Code 1860. A new section, Section 295-C, was also inserted into the Penal Code, which states:

> *Use of derogatory remarks, etc. in respect of the Holy Prophet: Whoever by words, either spoken or written, or by visible representations, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet (peace be upon him), shall be punished with death, or imprisonment for life, and shall also be liable to fine.*

Taken together, these laws prevent Ahmadis from identifying as Muslims, producing publications that reflect their beliefs, worshipping in mosques or congregating together to worship. Punishments range from three years to the death penalty – the latter in relation to 295-C.

According to a September 2023 report by Pakistan's National Commission for Human Rights (NCHR), 'Ahmadis face an astonishing number of legal charges' as a result of the above legal framework.[189] The report also noted dozens of instances of Ahmadi places of worship being desecrated.

Two special rapporteurs of the United Nations Human Rights Council have brought to the attention of Pakistan provisions in domestic law that were discriminatory on the basis of religion or belief and related acts of persecution against the Ahmadiyya minority. The government, in its response, stated that the Constitution and the legal and administrative framework of Pakistan as a whole fully protected the rights of all its citizens, including minorities.

Yet, the Group notes the findings of the NCHR, which stated in its 2023 report that 'Ahmadis have faced harassment and persecution despite the stated policy of the government to provide safeguards for the realisation of the constitutional guarantees to all religious minorities.'[190] The Group is concerned that the legal framework does not always confer equal rights on the Ahmadiyya community. Additionally, to the extent that the law does provide equal rights, the protections provided by law are not uniformly granted. Indeed, the Group is aware of a number of instances – conveyed by stakeholders as well contained in the NCHR report - in which it is alleged that Pakistani law enforcement failed to provide necessary protection to Ahmadis in the face of harassment.

Recommendation:

- In furtherance of its obligations under ICCPR, the government should seek to amend those provisions of the Pakistan Penal Code and the Code of Criminal Procedure that negatively affect the fundamental civil and political rights of the Ahmadiyya community.

The religious and societal discrimination faced by the Ahmadiyya community, as documented by the NHRC, has an obvious impact on the community's ability to participate in public and political life in a broad sense. However, the Group also understands that the ability of Ahmadis to vote and be voted for is impacted by laws that, in essence, pit Ahmadi identity against democratic participation.

Voter registration

In order to register to vote, all voters must first obtain a CNIC from NADRA, and in completing the paperwork confirm their religious status. Ahmadiyya are unable to select 'Muslim', because doing so compels the individual to take an oath, the substance of which does not align with Ahmadi beliefs (see Section 48 of the Elections Act). In selecting 'Ahmadi' instead, voters are placed on a separate voter register. Consequently, Ahmadis have historically boycotted elections as they are denied the right to identify as Muslim. Some stakeholders raised concerns over security as a result of the public availability of the voter register, which lists the religious identity of voters along with their names and addresses.

The Group also notes with concern reports of threats against the rights of religious minorities to exercise their democratic right. This includes non-Muslim communities allegedly being compelled to vote for specific religious parties at the threat of forced conversion. Another threat includes the re-emergence of the 2018 religious edict issued by Jamia Uloom Islamia, which was circulated on social media in the run-up to the 2024 election.[191]

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[189] www.nchr.gov.pk/wp-content/uploads/2024/04/Ahmadiya-Report.pdf

[190] Ibid.

Ahmadi candidates

Just as the Ahmadiyya community has boycotted the election as voters on account of their inability to identify as Muslims, the Ahmadiyya community has, for the same reason, also historically boycotted participation as candidates. Indeed, the Group was informed that there had been just one elected representative in the country's history, in 1971 – that is, prior to the 1974 Constitution. Additionally, Article 63 of the Constitution states that elected members cannot take their seat in the legislature without having taken the oath as set out in the Third Schedule of the Constitution, the substance of which does not align with Ahmadi beliefs. The Group was also informed that the Ahmadiyya community are not registered members of any party, in part because of their own boycotting of the political process, but also because political parties across the spectrum would be unlikely to welcome Ahmadis as members.

Recommendations:

- The ECP should take action to integrate the Ahmadiyya into the general voter roll.
- In order to align the Elections Act with the Constitution, as well as Pakistan's commitments under the UDHR and the ICCPR, Section 48A relating to the status of Ahmadis should be expunged, so that there is no requirement for any individual to sign a declaration relating to their religious status as a precondition for registering to vote. Similarly, there should be no requirement under the rules and procedures for obtaining a CNIC from NADRA that an individual be compelled to state their religious status or affiliation.
- The ECP should be more proactive in the prosecution of electoral offences where individuals seek to curtail freedom of choice, specifically in the context of religious minorities.

Prisoner voting

The right of prisoners to vote is enshrined in Section 26 of the Elections Act (voter registration) and Article 51 (2) of the Constitution (voter eligibility). The Group notes that Section 93 (d) of the Elections Act provides for prisoner voting via postal ballot. According to a 2023 report by Justice Project Pakistan, there are around 100,000 prisoners in Pakistan, roughly 99 per cent of them male.[192] In order to apply for a postal ballot, prisoners are required to submit an application form to the RO, who is required to send the prisoner a ballot in the mail.

The Group understands that the ECP made additional efforts in this election to reach out to prison authorities and seek their assistance in facilitating postal voting for prisoners. However, the Group understands that this outreach, as well as the ECP's voter education and awareness campaigns for prisoners, was conducted just a week before the deadline for the submission of postal ballot applications. In addition, the Group understands that many prisoners were unable to register to vote owing to expired or missing CNICs, with the administrative paperwork to receive fresh CNICs presenting difficulties for prisoners, many of whom are illiterate.[193]

While the Group commends the ECP's increased efforts in this election, more could be done to increase prison voting. In order to address the many administrative issues raised above, it may be necessary to establish a taskforce focused on prison voting for the next election. Additionally, voter awareness campaigns should be conducted much further in advance.

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[191] www.samaa.tv/208738401-elections-2024-can-you-vote-for-a-non-muslim-fatwa-stirs-debate

[192] https://jpp.org.pk/wp-content/uploads/2023/12/Fact-Sheet-Final-2023.pdf

[193] www.dawn.com/news/1809423

Recommendations:

- The ECP should undertake voter awareness campaigns for prisoners further in advance of the election, so as to ensure prisoners have adequate time to complete any administrative tasks, such as obtaining CNICs and submitting postal ballot applications.
- The ECP should consider establishing a joint taskforce with prison authorities on prisoner voting in order to provide improved assistance to prison voters and smooth the process for obtaining postal ballots.

5. The Campaign and the Media

The Campaign

The legal framework

The legal framework that underpins, or has a bearing on, campaign activities includes:

The Constitution:

- Articles 15-19 on freedom of movement, association, assembly and speech.

The Elections Act:

- Compels the ECP to develop a Code of Conduct in consultation with political parties, and stipulates all stakeholders who are bound by the Code of Conduct;
- Stipulates corrupt and illegal practices and provides for the monitoring of campaign events by the ECP, with fines for breaches of the Act, Rules or Code of Conduct;
- Stipulates campaign finance requirements for political parties and candidates.
- Regulates the use of campaign materials.

The Election Rules:

- Provide rules on campaign finance reporting and on the monitoring of campaigns by the ECP.

Codes of Conduct:

- Code of Conduct for Political Parties, Contesting Candidates and Election Agents
- Code of Conduct for National Observers
- Code of Conduct for National Media
- Code of Conduct for Security Officials
- Code of Conduct for Armed Forces/Civil Armed Forces
- Code of Conduct for International Observers/Media

The Maintenance of Public Order Ordinance 1960:[194]

- Provides grounds for arrest, detention and search warrants, and confers powers on the police in this regard.

Additionally, Pakistan ratified the ICCPR in 2010.

Election programme

In a notification on 3 November 2023, the ECP announced the election date of 8 February,[195] and heightened political campaigning was observed from 15 December 2023, the official start date of the 56-day campaign period. However, unofficial election campaigns commenced from the appointment of the caretaker government on 9 April 2022. Therefore, the election campaigns were perceived by some stakeholders as unusually lengthy.

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[194] https://khalidzafar.com/wp-content/files_mf/1527081109TheWestPakistanMaintenanceorPublicOrderOrdinance1960.pdf

[195] https://ecp.gov.pk/notifications/ecp-announces-8th-february2024-as-poll-date-for-the-general-elections-to-the-national-assembly-of-pakistan-and-provincial-assemblies-of-punjab-sindh-khyber-pakhtunkhwa-and-balochistan

On 15 December 2023, the ECP published the election programme, which included the following:

- 19 December 2023: Public notice to be issued by RO
- 20–22 December 2023: Filing nomination papers with RO by candidates[196]
- 23 December 2023: Publication of names of nominated candidates
- 24–30 December 2023: Last day for scrutiny of nomination papers by RO
- 3 January 2024: Last day for filing appeals against decisions of RO rejecting/accepting nomination papers
- 10 January 2024: Last day for deciding of appeals by appellate tribunal
- 11 January 2024: Publication of revised list of candidates
- 12 January 2024: Last date for withdrawal of candidature and publication of revised list of candidates
- 13 January 2024: Allotment of election symbol to contesting candidates
- 8 February 2024: Polling day

The above election programme also applied to seats reserved for women and non-Muslims in the National Assembly and Provisional Assemblies.

On 14 January 2024, the ECP announced the list of 150 symbols allotted to political parties contesting the general elections.[197] However, one of the major parties was prevented from using its party symbol owing to the ECP's determination that it had failed to comply with election rules on intra-party elections (see Chapter 3 for more details). PTI members stood as independent candidates and available symbols for candidates were published on the same day.

Methods of campaigning

Political parties used various means of campaigning to disseminate their message to voters and to engage them. This included holding face-to-face political rallies and the wide use of social media, campaign banners, flags and posters in heavily populated urban areas. Parties made use of print, radio, television and social media to advertise (discussed further down this chapter).

Stakeholders stated that, unlike previous elections that had robust candidate debates and numerous large rallies, the 2024 elections lacked these elements.

Some stakeholders reported that there was a sense of campaign fatigue, as a result of the delay in the announcement of a date for general elections. Despite reports of the absence of a level playing field, concerns by stakeholders that there might be pre-election poll rigging and attempts to manipulate the process, all stakeholders indicated that they wanted the 2024 general elections to take place on 8 February 2024, as announced.

Arrests, detentions and absences

It was noted that not all political parties equally enjoyed freedom of movement, association and assembly to spread their message freely and to campaign in all parts of the country, with some parties, candidates and supporters facing more restrictions than others. The Group received reports of various disruptions to campaign activities of opposition parties, including raids on the homes of party leaders and journalists, the detention of party affiliates at campaign events, arrests and detentions of party members and candidates, and some unexplained periods of absence of candidates and party affiliates, some of whom were reported to have later resurfaced and announced a change of party allegiance. The Group also received reports of media personnel being arrested for their coverage of some aspects of the election.

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[196] Although the deadline for the submission of candidate nomination forms was 22 December, the ECP utilised its discretionary powers under Section 58 of the Elections Act to extend the deadline by 2 days until 24 December.

[197] https://ecp.gov.pk/storage/files/2/PF%20wing/List%20of%20Allotted%20Election%20Symbols%20to%20Political%20Parties%20in%20GE-2024%20-%2014-1-2024.pdf

Examples of such instances, each of which was reported by national media, include the following (listed roughly in chronological order):

- At a workers' convention in Upper Dir on 22 November, 60 PTI party workers were reportedly arrested, while in Swat 200 PTI activists were reportedly arrested the following day.[198]
- A Dawn journalist who had reported on the alleged snatching of PTI nomination papers in Mianwali district was reportedly arrested later the same day.[199]
- Former PTI Minister Zartaj Gul Wazir, aspirant for NA-185, alleged that her lawyer had been arrested and her proposer and seconder had been apprehended at the RO's office.[200]
- Various allegations were reported by Dawn regarding interference in the submission and scrutiny of candidate nomination papers, both by the police and by ROs, including harassment of lawyers, proposers and seconders.[201]
- The homes of PTI Chair Barrister Gohar Khan and PTI Secretary Omar Ayub Khan were allegedly raided without warrants on 12 and 13 January 2024.[202]
- Geo TV reported that the home of a veteran politician and his son-in-law had been raided on 25 January 2024, with the son-in-law later arrested.[203]

The Group notes that, according to reports, the police allegedly lacked search warrants for many of the above raids. The Group was informed by some stakeholders that the arrests and detentions of individuals that took place during the campaign period was reflective of the period between May 2022 and the commencement of the formal campaign period in December 2024. The Group appreciates that a significant number of the reported 10,000 arrests will have been in connection with the 9 May riots, yet the Group understands that arrests at times extended to those who had not participated in any rioting.

The Group is thus concerned by what appears, in some cases, to be the targeted use of state power against political opponents, contrary to Pakistan's democratic ideals and constitutional provisions. It is important that this be seen within the broader historical context of electoral politics in Pakistan. The Group was informed that abuses of state power had taken place in successive electoral cycles, regardless of which political party had been in the ascendency, with the so-called military 'establishment' representing the common denominator throughout.

The picture that emerges is of a political landscape in which military interests have a significant and negative impact on the country's democracy, typically justified under the pretext of the so-called 'doctrine of necessity'. In order for Pakistan's democracy to flourish in the years to come, and for the country's elections to be ever more credible and transparent, it is vital that political parties seek to break this cycle. Doing so depends on political parties taking concrete measures to build trust in each other. While the Group does not underestimate the size of this challenge, the long-term health of Pakistan's democracy will ultimately depend on the cross-partisan defence of democratic institutions, including of political parties themselves.

Closure of PTI offices

The Group was made aware of the closure of a number of PTI offices between June 2023 and February 2024. This included PTI's Karachi office, which was closed by law enforcement. PTI filed a petition with Sindh High Court against this sealing.[204] According to media reports, on 5 December 2023, PTI's Punjab office was closed by Lahore Development Authority, apparently just one day after Lahore High Court had ordered that it be allowed to remain open.[205] On 31 January 2024, media reports stated that PTI officials were refused entry to their offices in Islamabad and Quetta by law enforcement.[206] While the Group was unable to confirm these specific media reports, the Group had been informed of the closure of PTI offices by other stakeholders, including PTI officials.

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[198] www.dawn.com/news/1792890

[199] www.dawn.com/news/1799743

[200] https://tribune.com.pk/story/2451231/pti-still-seeks-fair-conduct-despiteecp-orders

[201] www.dawn.com/news/1801501

[202] www.dawn.com/news/1805614

[203] www.geo.tv/latest/528396-javed-hashmi-claims-police-raid-house-ahead-of-ptis-convention-in-multan

[204] www.thenews.com.pk/print/1077520-high-court-moved-againstsealing-of-pti-offices

[205] https://arynews.tv/ptis-central-punjab-office-sealed-again/

Online campaigns

The COG received reports from parties that disruptions to internet connectivity and access to certain websites in Pakistan appeared to coincide with online campaign activities of certain opposition parties, with impacts on freedom of expression and assembly. The Group notes, for example, Netblocks' analysis showing a disruption to social media platforms on 17 December 2023, the same day PTI was holding an online Jalsa.[207] In a post on social media platform X, the Human Rights Council of Pakistan condemned the disruptions.[208] Netblocks reported similar nationwide disruptions on 7 January 2024, as PTI launched its manifesto,[209] and on 20 January 2024, as it held another online campaign event.[210]

Recommendation:

- In fulfilment of the country's constitutional obligations on freedom of expression and its commitments under international law, relevant state agencies and regulators should ensure internet services are not purposefully disrupted during the campaign period.

Perpetrators and victims of electoral violence

Pakistan continued to face serious security challenges along and within its borders, including numerous terrorist incidents. The motivations for terrorist activities vary, meaning that not all can be regarded as having a connection with the election *per se*. However, the Group understands that some terrorist incidents are connected to a rejection of democratic politics in Pakistan and are targeted at certain political parties. According to the Armed Conflict Location and Event Data (ACLED) project, there were 24 incidents targeting political parties in the lead-up to the 2024 election – similar to in 2018 but far lower than in 2013.[211] These attacks reached a crescendo in the final week of the campaign period and on election day itself.[212]

In two separate incidents in the weeks leading up to the election, two candidates, Malik Kaleem Ullah and Rehan Zab Khan, were sadly shot and killed while campaigning.[213] On 7 February 2024, the eve of the elections, two bomb blasts in Balochistan tragically killed at least 28 people and injured dozens more. The Islamic State of Iraq and the Levant (ISIL) claimed responsibility for the blasts.[214] Furthermore, armed groups reportedly killed 10 people in KP. The media reported that the attacks had targeted the election offices of political parties.[215]

The COG Chair, His Excellency Dr Goodluck Ebele Jonathan, issued a statement condemning the fatal attacks.[216] Dr Jonathan expressed his sincere condolences to the families of the victims and wished a quick recovery to those injured. He also commended the security and polling officials for their bravery in ensuring the election went ahead, despite those cases of violence.

The ECP immediately held meetings in response to the attacks, and on the same day declared that the elections would go ahead in these regions with increased security.

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[206] www.pakistantoday.com.pk/2024/01/31/pti-condemns-sealing-ptis-central-office-islamabad-quetta/

[207] https://x.com/netblocks/status/1736639082795540983

[208] https://x.com/HRCPakistan/status/1736445806465704413

[209] https://x.com/netblocks/status/1743984265619026084

[210] https://x.com/netblocks/status/1748710124900823286

[211] https://acleddata.com/2024/02/01/political-repression-and-militant-targeting-set-the-stage-for-pakistans-2024-elections/

[212] https://acleddata.com/2024/02/14/acled-insight-election-related-violence-in-pakistan/

[213] https://edition.cnn.com/2024/02/01/asia/pakistan-election-candidate-killed-intl-hnk/index.html

[214] www.bbc.co.uk/news/world-asia-68226516

[215] www.aljazeera.com/news/2024/2/5/armed-group-kills-10-in-pakistans-restive-khyber-pakhtunkhwa-region

[216] https://thecommonwealth.org/news/statement-commonwealth-observer-group-condemns-pakistan-terror-attacks

Recommendations:

- The police and other relevant security services should ensure a safe environment for all candidates throughout the campaign period. The police may wish to consider carrying out security assessments to establish those candidates who may face additional security threats and therefore require additional security.
- The police should ensure that all instances of electoral and political violence are properly investigated, and the perpetrators prosecuted.

The issue of violence and intimidation against specific marginalised groups, including women and the Ahmadiyya community, is discussed in Chapter 4.

Campaign finance

Candidates must comply with campaign finance laws and regulations, as set out in Sections 132–138 of the Elections Act and Sections 159–161 of the Election Rules.

Candidate expenditure

Sections 132–138 of the Elections Act state that candidates are required to submit post-election expense returns on Form C within 30 days of the declaration of results. Any purchases made by political parties on behalf of a specific candidate must be included in these returns. Importantly, these provisions are limited to the campaign period – that is, from the date of filing nomination papers to the date of issue of the final result.

The August 2023 amendments to the Elections Act increased the caps on candidate expenses as follows:

- National Assembly: Increase from R4 million to R10 million;
- Provincial Assembly: Increase from R2 million to R4 million.

Political party expenditure

Section 204 of the Elections Act prohibits the receipt of donations to political parties by 'any foreign government, multi-national or public or private company, firm, trade or professional association or individual'. Section 159 of the Election Rules states that political parties are required to submit consolidated statements of income and expenses, sources of funds, and assets and liabilities to the ECP on Form D within 60 days of the close of each financial year. Section 161 further states that political parties must also submit consolidated statements of election expenses, including the names of all contributors who donated more than R1 million. This is to be submitted to the ECP within 60 days of the publication of the returned candidates in the Gazette.

Importantly, there are no caps on donations, or on political party expenditure. As such, aside from the confiscation of funds for infractions under Section 204 of the Elections Act, the law does not contain additional sanctioning powers, or specify additional sanctions.

Stakeholders reported concerns regarding the fairness of this legal framework, especially the inability of the ECP to collect information regarding expenses for candidates incurred by third parties.

The Group notes that Section 135 of the Elections Act provides for the public inspection of Form C, which is a commendable provision. However, it is noted that there does not appear to be any similar legal requirement for Form D or Form 69 to be made available for public inspection.

The Group also notes there are currently no provisions related to the purchasing of political adverts, either in traditional media or on social media platforms, or any laws or rules stipulating how such purchases can be made available for public scrutiny. Building on emerging international good practice in this area,[217] it may be beneficial for political parties to be required to submit to the ECP a list of all purchased offline and online political adverts, with these lists available online for public scrutiny.

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[217] Commonwealth Secretariat (2020) 'Political Finance Regulation: A Best Practice Guide to Legislative Approaches'. https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2023-04/Political%20Finance%20

Recommendations:

- The government and the National Assembly should consider amendments to the Elections Act and Election Rules to include caps on donations to political parties and caps on political party expenditure during campaigns. These amendments should include sanctions for violations, with the ECP empowered to issue said sanctions.
- The government and the National Assembly should consider an amendment to the Elections Act and Election Rules to ensure greater scrutiny over party campaign expenses for candidates and political parties paid for by third parties.
- In order to provide the ECP with flexibility to (re-)scrutinise Form C beyond the 90-day cut-off point, the government and the National Assembly may wish to consider an amendment to Section 136 (2) to allow for expense returns to be open to scrutiny by the ECP for a period of at least one year.
- The government and the National Assembly should consider an amendment to the Elections Act to allow for the public inspection of Forms D and 69.
- In order to increase transparency, and in consideration of Section 135 of the Elections Act and Section 135 (2) of the Elections Rules, the ECP should consider establishing an online portal for members of the public to inspect all campaign expenditure forms. The amendments should be aligned with any data protection law that may in future be passed.
- The government and the National Assembly may wish to consider amendments to the Elections Act to include specific provisions governing the use of paid political adverts both offline and on social media platforms, such as requiring all paid ads to state the source of funding; requiring ads to be registered with the ECP; and requiring this list to be made available for public inspection online.

Pre-poll vote-buying

Days before the election, PML-N and the PPP exchanged accusations of vote-buying in NA-127 and PP-160, respectively, with the accusations including reports of voters – particularly women voters – being coerced to take oaths over religious texts.[218] Both incidents were brought to the attention of the ECP, which stated it had reached out to the Punjab provincial government for a report into the incident.

The media

Overview

Pakistan has a vibrant media landscape that predates the country's independence in 1947. The Lahore Chronicle, founded in 1849, was the first newspaper in what is present-day Pakistan. The Urdu language newspaper, The Daily Jang, is the longest-running newspaper in the country, having been in circulation since 1939. Dawn, its oldest English language newspaper, was launched by the founder of the state of Pakistan, Mohamed Ali Jinnah, and it remains the most influential in its category. According to PBS, as of 2019 there were 1,414 newspapers and periodicals in the country, including 878 dailies that are mostly in Urdu.[219]

In 2002, in what at first glance may appear paradoxical, media laws were liberalised under General Pervez Musharraf.[220] That year, the National Assembly passed the Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance, with PEMRA mandated to issue private broadcasting licences and regulate broadcasters. The same year, the Freedom of Information Act and the Press, Newspapers, News Agencies and Books Registration Ordinance were passed, each of which represented additional media liberalisation.

Regulation%20Legislative%20Approaches[66].pdf?VersionId=.kl0NoN_VNuwvH0wnP_JcEiarciJLf4D

[218] www.dawn.com/news/1811230

[219] www.pbs.gov.pk/sites/default/files/tables/social_statistics/News_Paper.pdf

[220] The liberalisation of the media took place alongside a broader programme of economic liberalisation during this time, and should be seen within the context of Pakistan's evolving relationship with the US in the post-9/11 period.

Since then, private sector media has flourished in Pakistan. According to the 2020 annual report by PEMRA (the most recent annual report available online), there are 106 satellite TV channels (30 of which are news and current affairs), 257 radio stations, 43 landing channels and 4,062 cable TV licences.[221]

Perhaps the largest media house remains the Pakistani Broadcasting Corporation (PBC), which broadcasts in more than 20 languages on radio and TV and covers almost the entire country. The PBC operates a national-level news and current affairs channel, among others.[222] It was created through a Presidential Ordinance in 1972, which later became the Pakistan Broadcasting Act of 1973. The PBC has an 11-member Board, appointed by the federal government and consisting mainly of government officials, which supervises the PBC. A director-general looks after the day-to-day business of the PBC.

The Group is concerned that government supervision of the PBC, and its appointment of the PBC's Board, could compromise the broadcaster's independence. The government and the National Assembly may wish to consider legislative amendments that limit government supervision of the PBC. This could include amendments to the appointments process of the Board by a parliamentary committee. Appointment of its director-general should be undertaken by a Board that is representative of the broader sphere of society, including the media union or federation and not just government officials as currently constituted.

Recommendation:

- The Pakistan Broadcasting Act of 1973 should be amended to further strengthen the independence of the PBC, including via amendments to the appointments process of the Board, such as by a parliamentary committee, and consider legislative amendments that limit government interaction with the PBC to funding, auditing and annual reporting. Appointment of its director-general should be undertaken by a Board that is representative of the broader sphere of society, including the media union or federation and not just government officials as currently constituted.

According to a 2022 Gallup Pakistan survey, 40 per cent of Pakistanis use television, 20 per cent use the internet and only 2 per cent use radio as their primary source of news. Meanwhile, 11 per cent obtain their news from social media while 7 percent rely on word of mouth. While the majority of those who rely on TV news are above 50 years of age, younger generations depend on the internet and social media for news.[223]

The legal and regulatory framework

Article 19 of the Constitution guarantees freedom of expression, and thus provides the legal basis for a free media environment. Other media laws include:

- Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance 2002
- Press, Newspapers, News Agencies and Books Registration Ordinance 2002
- Press Council Ordinance 2002
- Defamation Ordinance 2002
- Pakistan Telecommunication (Reorganisation) Act 1996
- Prevention of Electronic Crimes Act (PECA) 2016
- Right of Access to Information (RTI) Act 2017
- Protection of Journalists and Media Professionals Act 2021
- Citizens Protection (Against Online Harm) Rules 2020
- Removal Blocking of Unlawful Online Content Rules

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[221] www.pemra.gov.pk/assets/uploads/reports/pemra_annual_report_19-20.pdf

[222] https://pakistan.mom-gmr.org/en/owners/companies/detail/company/company/show/pakistan-broadcasting-corporation/

[223] https://gallup.com.pk/post/33809

While the above laws provide for a robust regulatory environment for the media, the Group is concerned that a number of provisions, both in the Constitution and in primary legislation, place undue restrictions on the media, and therefore counteract constitutional freedoms and place these laws at odds with the ICCPR, to which Pakistan has acceded. Furthermore, the Group is concerned that, while the regulatory framework shares many of the same features as countries that score highly for freedom of expression, the broader political environment constrains the independence of regulators and other state institutions, and in turn limits freedom of expression.

Constitution

While Article 19 of the Constitution guarantees 'freedom of the press', the same provision goes on to subject this freedom to 'any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence'. The Group notes that much of the wording in this provision, including 'integrity, security or defence of Pakistan', is vague and broad, and could provide grounds for the suppression of speech that would be considered legitimate under international law.

Recommendation:

- The government and the National Assembly should consider an amendment to Article 19 of the Constitution to ensure full alignment with Article 19 of the ICCPR.

Pakistan Electronic Media Regulatory Authority Ordinance

The PEMRA Ordinance 2002 governs broadcast media in Pakistan. This law was amended in 2007, and again in August 2023, shortly before the dissolution of parliament. The PEMRA Ordinance was enacted with the objective of ensuring the provision of a high-quality broadcast media service, enlarging the choice of broadcasters available to the public, and 'ensuring the accountability, transparency and good governance through the free flow of information'.[224] It also provides for the functioning of the licensing process, which defines criteria for the issuance, renewal and revocation of licences. It is also used to regulate broadcast content. It also contains anti-monopoly provisions in order to encourage a diverse media landscape.

The PEMRA Ordinance establishes a Code of Conduct that sets standards for ethical broadcasting practices. There is a complaints and redressal mechanism, allowing the public to voice concerns, with penalties specified for violations, including fines and licence suspension or revocation. The Code of Conduct includes fundamental principles to which licensees must adhere. While a number of these are eminently reasonable, including that no content is aired that 'is known to be false, or there exist sufficient reasons to believe that the same may be false beyond a reasonable doubt', some provisions appear either vaguely worded (e.g. 'no content is aired which is against... the ideology of Pakistan') or to be contrary to freedom of expression, including 'aspersions against the... armed forces'. Similar provisions are contained in Section 27A of the PEMRA Ordinance.

Recommendation:

- The government and the National Assembly should consider amendments to the PEMRA Ordinance and the Code of Conduct in order to provide greater clarity on proscribed content and to ensure the Act and Code's provisions align with Article 19 of the ICCPR.

Prior to the 2023 amendments to the Ordinance, PEMRA had issued directives that, in effect, prevented broadcasters from airing speeches by Imran Khan, on the basis that they constituted hate speech and other proscribed language.[225] The Commonwealth Secretariat PEAM was informed that, in practice, Mr Khan's name cannot be stated on broadcast content, with broadcasters instead required to refer to the 'former PTI Chair'. It is important to note, however, that this practice is not new; during the previous government, the media was reportedly prevented from mentioning former Prime Minister Nawaz Sharif's name.[226] In both cases, it is difficult to understand on what legal basis such a directive could be issued. Advocates for media freedom argue that, while PEMRA should ensure channels adhere to the law and refrain from allowing hate speech, the Authority appears to have issued directives that stray from apolitical content moderation.

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[224] https://pemra.gov.pk/about/

[225] www.theguardian.com/world/2023/jun/13/pakistan-media-decry-de-facto-ban-on-giving-airtime-to-imran-khan

Other concerns regarding certain provisions of the PEMRA Ordinance and its application are included further down this chapter.

Prevention of Electronic Crimes Act

PECA addresses various aspects of cybercrimes and electronic offences and provides a legal framework to prevent, investigate, prosecute and punish offences committed through electronic means. However, the Group is concerned with certain provisions of the Act, which could have impacts on freedom of expression.

Sections 10 (cyberterrorism) and 20 (offences against the dignity of a person) include broad and vague provisions that could be used to stifle freedom of expression that would be permissible under international law.

Section 37 grants the authority to remove or block content 'through any information system it considers necessary in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, public order, decency or morality, or in relation to contempt of court or commission of or incitement to an offence under this Act'. This wording is sufficiently broad and vague as to confer *carte blanche* authority to PEMRA with regard to content removal, and potentially places this provision at odds with Pakistan's commitments to freedom of expression under international law.

PECA also allows complainants to file petitions with the Pakistan Telecommunication Authority (PTA) to block objectionable content. The PTA can then act against such content without acquiring a court order. Additionally, the Group notes concerns raised by the Digital Rights Foundation (DRF) regarding Section 33 of PECA, which the DRF says confers officers with overly broad powers to access and inspect data – a provision that could have an impact on journalistic freedoms.[227]

Recommendation:

- The government and the National Assembly should review PECA to ensure it aligns with Article 19 of the ICCPR.

Disinformation, deepfakes and fact-checking

The Group noted, through its own observations of social media as well as stakeholder interviews and media reports, that disinformation was prevalent in the 2024 Pakistan election. The purpose of disinformation in an electoral context is to deceive voters and manipulate their ability to make informed choices about candidates and political parties.

The Group received reports that disinformation was also used to target and discredit the media. The Group was informed that disinformation was also used by political parties to dominate the news cycle and distract from other key issues. There are challenges to addressing disinformation. Both Pakistan's low literacy rate and its lack of digital literacy affect citizens' ability to identify disinformation.

Additionally, mis- and disinformation can often be spread by journalists themselves. A 2022 report by Freedom Network/Digital Media Alliance of Pakistan found that many journalists and news editors had a poor conceptual understanding of the difference between opinion, fact, information and, by extension, mis- and disinformation.[228]

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[226] www.thenews.com.pk/print/723031-broadcasting-nawaz-s-speeches-banned-broadcasting-convicts-statement-illegal-says-pemra

[227] www.article19.org/data/files/medialibrary/38416/PECB-Analysis-June-2016.pdf

[228] www.mediasupport.org/wp-content/uploads/2023/01/Countering-Disinformation-in-Pakistan-2023.pdf

The report also noted that a number of journalists in recent years had moved to YouTube in order to develop their own personal journalism brands – a point echoed during stakeholder briefings. Social media influencers, who have large online followings but who either lack awareness of or do not always adhere to journalistic standards, have established very large followings in recent years. The report by Freedom Network noted that the desire to monetise output through high rates of views contributed to content being sensationalised, thus increasing the amount of online disinformation.[229]

The Group was informed that the 2024 election had seen an increase in the use of artificial intelligence (AI) during the campaign, including so-called 'deepfakes' – videos in which a person's body or voice is digitally manipulated. In the context of elections, deepfakes are typically shared in order to spread disinformation in the pre-election period, although PTI made use of AI in order to create a video of imprisoned leader Imran Khan giving a victory speech two days after the election.[230] PTI also employed AI to create a chatbot alerting PTI supporters as to which symbol PTI endorsed candidate had been allotted. The Group understands this resource proved popular among PTI supporters.[231]

Non-profit online publication Rest of World reported on two deepfake videos aimed at spreading disinformation in the weeks and days leading up to the election. These included a deepfake of Imran Khan telling voters to boycott the elections, as well as a similar call to boycott the election by PTI Senior Vice President Sher Azfal Marwat.[232] The first video was dismissed as fake by PTI, while the second was established to be fake by fact-checking organisation Soch Fact Check. France 24 also reported on numerous other deepfakes, each carrying a message to PTI voters to boycott the election.[233]

The DRF also reported that, on the one-year anniversary of the 9 May riots, PTI released a video of Imran Khan praising 'women of steel', with a video purporting to show women standing in defiance of police during the riots. It was later established that the images were created by AI.[234]

It is important to note that, while the use of such deepfakes can be used to spread disinformation, the degree to which these videos have an impact on voting intentions is less clear. It may be the case that individual deepfake videos – or indeed other forms of disinformation – may on their own be of limited impact in terms of changing voters' intentions at the ballot box. Instead, it may be more appropriate to consider the cumulative impact of different types of disinformation on the broader information environment over an extended period of time. Indeed, the Group is concerned that there may be a feedback loop between the degree of political polarisation in Pakistan and the prevalence of mis- and disinformation.

There are, however, uses of AI in which the impact on the target – or indeed, victim – can more immediately be established. The DRF reported on the use of AI bots on social media, some of which had been used to share fake images of unclothed transgender candidates – an action that can be categorised as online gender-based violence.[235]

Fact-checking

UNDP supported the development of iVerify,[236] which launched in December 2023 and was used by some partner media houses to fact-check various news items and information.[237] Using the tool, information on pre-campaigning issues and elections was verified. The Group was unable to determine how verified information reached illiterate users, who are often the victims of disinformation. Additionally, Soch Fact

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[229] Ibid.

[230] https://restofworld.org/2024/elections-ai-tracker/#/pakistan-imran-khan-prison-speech

[231] https://restofworld.org/2024/elections-ai-tracker/#/pakistan-electoral-symbols-chatbot

[232] https://restofworld.org/2024/elections-ai-tracker/#/pakistan-party-leader-deepfakes; https://restofworld.org/2024/elections-ai-tracker/#/pakistan-election-boycott

[233] www.france24.com/en/tv-shows/truth-or-fake/20240208-artificial-intelligence-and-deepfakes-takeover-pakistan-elections

[234] https://digitalrightsfoundation.pk/election-illusions-deepfakes-disinformation-in-pakistan/

[235] Ibid.

[236] www.undp.org/digital/iverify

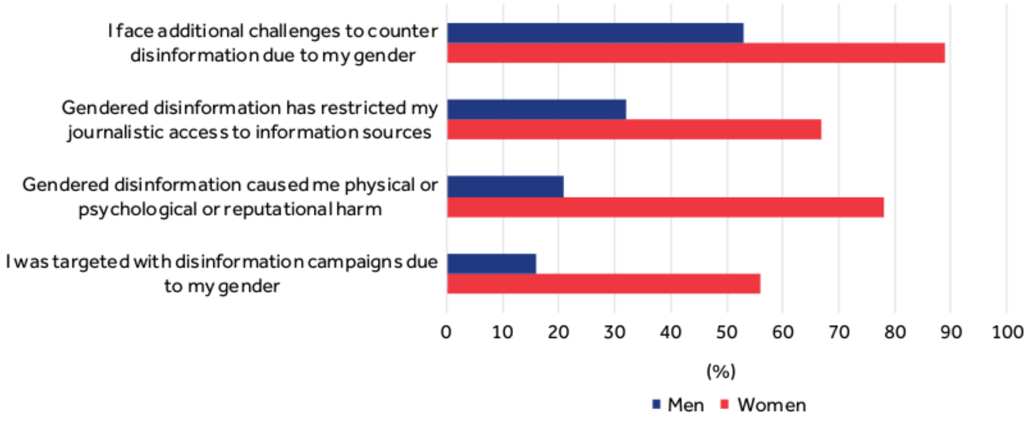
[237] www.dawn.com/news/1804764

Check, a non-partisan fact-checking organisation, fact-checked various election-related news stories. The organisation was able to identify many instances of disinformation, including in relation to photographs of candidates boycotting elections, voting on polling day and deepfake videos.[238]

Three organisations, the DRF, Meedan and Check, also sought to counter gendered disinformation. They jointly launched the Gendered Disinformation WhatsApp Tipline to counter 'growing gendered disinformation and misinformation during elections'.[239] The tipline was available in both Urdu and English and collected content in the form of text, images, video and audio that is false and sexist.[240]

Gendered aspects of disinformation, and efforts to counter it, were also noted by the aforementioned Freedom Network report. Their 2022 study, albeit with a relatively small sample size, found that 56 per cent of women journalists reported being victims of disinformation campaigns owing to their sex, and 89 per cent of women journalists reported facing additional challenges to counter disinformation owing to their sex.[241]

Figure 5.1 Gender disaggregated disinformation challenges for journalists



Source: Freedom Network/Digital Media Alliance of Pakistan (Digimap) (2022)

Some stakeholders accused the state of being complicit in the dissemination of disinformation. The Group was told that the government had social media sites that had been requested to remove fact-checked information. The Group was unable to verify this claim. The Group also received concerns regarding censorship of media websites. In addition to websites being compelled to remove 'anti-state' content, the Group was informed, websites verifying or countering information provided by the state were subjected to censorship and could be accessed only outside of Pakistan. Again, the Group was unable to verify this claim.

A number of platforms released information on their efforts to counter disinformation in the pre-election period, including Meta and TikTok. Meta established a 'dedicated election operations team comprising subject matter experts who are deeply familiar with the local country context to help monitor and respond to emerging risks in real-time'.[242] Meta also reiterated its requirements regarding the purchase of political adverts, and noted its collaboration with the ECP and PakVoter to develop a civic and voter education campaign. The company also worked with Agence France-Press (AFP) and Soch Fact Check. The Group has been unable to find any information that would allow the efficacy of Meta's content moderation policies to be determined.

TikTok also shared its efforts to uphold election integrity on its platform. This included collaborating with local and regional fact-checkers, including AFP, to address election integrity issues, as well as content removal and the use of labels to alert users about potential mis- or disinformation.[243] As with Meta, the Group was unable to identify information that would allow for an assessment of these efforts.

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[238] www.sochfactcheck.com/category/politics/

[239] https://digitalrightsfoundation.pk/subject-drf-launches-disinformation-whatsapp-tipline-to-counter-gendered-disinformation-during-the-elections/

[240] Ibid.

[241] www.mediasupport.org/wp-content/uploads/2023/01/Countering-Disinformation-in-Pakistan-2023.pdf

[242] www.brecorder.com/news/40265527

[243] www.app.com.pk/national/tiktok-shares-election-integrity-measures-on-platform-ahead-of-general-election/

PEMRA, PECA and disinformation

In August 2023, under the caretaker government, the Senate unanimously passed the PEMRA Amendment Bill 2023. Many, including the media and political parties, criticised the new law, citing concerns over curtailed freedom of expression and media freedom. The Act introduced definitions for misinformation and disinformation into the legal framework:

- Disinformation is defined as 'verifiably false, misleading, manipulated, created or fabricated information which is disseminated or shared with the intention to cause harm to the reputation of or to harass any person for political, personal, or financial interest or gains without making an effort to get other person's point of view or not giving it proper coverage and space but does not include misinformation'.
- Misinformation is defined as 'verifiable false content or information that is unintentionally disseminated or shared'.

Section 20 (J) specifically prohibits broadcasters from airing disinformation. Section 29A states that licensees can incur fines of up to R1 million for violations of any provisions of the Ordinance or Code, but then goes on to state that 'severe violations' of the provisions of the PEMRA Ordinance 2002 can incur a maximum fine of R10 million on the licensee - a ten-fold increase from the previous provision. However, 'severe violations' is defined by the Ordinance as 'a violation of this Ordinance or violation of Article 19 of the Constitution of the Republic of Pakistan'. As such, the Ordinance appears to make all violations severe violations.

As noted further up this report, Section 37 of PECA grants law enforcement broad powers to remove content from online communication systems - or direct service providers to block this content. While PECA does not directly refer to the terms 'misinformation' and 'disinformation', this provision could similarly be used to remove content that might be permissible under Article 19 of the ICCPR.

The Group appreciates that mis- and disinformation represent a genuine threat to political discourse and the ability of voters to make informed decisions. Equally, the Group appreciates the instinctive desire to address mis- and disinformation through coercive legislative approaches, such as the inclusion of definitions of these terms in law and the ability of a regulator to sanction broadcasters found to have broadcast content that meets these definitions. Indeed, the Group appreciates that many features of Pakistan's regulatory framework, such as a mandatory code of conduct, the right to appeal and the ability of the regulator to issue sanctions or revoke licences for serious breaches of the code, including broadcasting false information, can be found in other countries that receive high scores for freedom of expression.

However, the Group has two broad but interlinked concerns. First, the Group notes that the broader context in which a legal and regulatory framework exists will have a significant bearing on whether this framework ensures freedom of expression is guaranteed. Such contextual factors include the real-world (as opposed to statutory) independence of the regulator, as well as the country's track record of upholding freedom of expression.

As is discussed throughout this chapter, the Group has a number of concerns in this regard, including the Constitution's limitations on freedom of expression; the arrest, detention and, in some cases, killing of journalists in Pakistan (five in the first half of 2024)[244]; impunity for perpetrators of violence against journalists; and policy decisions by regulators that appear to favour the government of the day, such as the ban under the previous two governments on broadcasters stating the name of the opposition leader. Pakistan is currently ranked 152 out of 180 on the Reporters Without Borders Press Freedom Index.[245]

Within this content, the adoption of coercive legislative measures to combat mis- and disinformation is a cause for concern, since the broader environment in which the regulatory framework exists places pressures on institutions that can limit their ability to guarantee freedom of expression. Indeed, the Group is cognisant that the international normative approach to combatting mis- and disinformation cautions against the use of such coercive legislative measures, and instead advocates for a human rights-based approach centred around the need to maximise freedom of expression and pursue only non-coercive measures. This leads to the Group's second concern, which is in relation to PEMRA's inclusion of definitions of mis- and disinformation.

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[244] https://rsf.org/en/index

[245] Ibid.

In the first instance, mis- and disinformation are difficult concepts to define in law, thus compromising the 'principle of legal certainty'. Here, the United Nations Special Rapporteur on the Promotion and Protection of Freedom of Expression is worth quoting at length:

> *The principle of legality requires the scope, meaning and effect of the law to be sufficiently clear, precise and public. Vague laws that confer excessive discretion can lead to arbitrary decision-making and are incompatible with article 19 (3) of the Covenant. Any limitation of disinformation must establish a close and concrete connection to the protection of one of the legitimate aims stated in article 19 (3). The prohibition of false information is not in itself a legitimate aim under international human rights law.*[246]

This point is echoed by the Joint Declaration on Freedom of Expression and 'Fake News', Disinformation and Propaganda, signed by the respective special rapporteurs on freedom of expression of the United Nations, the Organization for Security and Co-operation and Europe (OSCE), the Organization of American States (OAS) and the African Commission on Human and Peoples' Rights (ACHPR):

> *General prohibitions on the dissemination of information based on vague and ambiguous ideas, including "false news" or "non-objective information", are incompatible with international standards for restrictions on freedom of expression, as set out in paragraph 1(a), and should be abolished.*[247]

The Group regards PEMRA's definitions as overly broad insofar as they could be applied to speech that falls outside the scope of Article 19 (3) of ICCPR on freedom of expression. While Article 19 (3) provides for restrictions on speech in limited circumstances, it does not envisage such a broad application of this provision. Second, even if those terms could be defined in a clear and precise manner, it could still be difficult to establish whether any given speech meets these legal definitions of mis- or disinformation. Moreover, as the United Nations Special Rapporteur on Freedom of Expression notes:

> *There is growing evidence that disinformation tends to thrive where human rights are constrained, where the public information regime is not robust and where media quality, diversity and independence is weak. Conversely, where freedom of opinion and expression is protected, civil society, journalists and others are able to challenge falsehoods and present alternative viewpoints. That makes international human rights a powerful and appropriate framework for addressing disinformation.*[248]

Thus, if the purpose of the recent amendments to PEMRA is to tackle disinformation, the legislation's limitations on freedom of expression may work in opposition to this objective.[249]

Instead, the government and PEMRA should pursue non-coercive measures to combat mis- and disinformation, since they are likely to be effective in the long run while also protecting freedom of expression. Such non-coercive measures include:

- **Promotion of media literacy**: Increase efforts in promoting media and information literacy among the public. This approach empowers individuals to critically assess the information they encounter and make informed decisions about its credibility and reliability. This point is echoed by the Commonwealth Secretariat's Cybersecurity in Elections Guide.[250]
- **Voluntary codes of conduct**: Encourage the development of voluntary codes of conduct for media organisations and digital platforms to help set standards for accuracy and accountability without imposing state-led regulations.

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[246] https://documents.un.org/doc/undoc/gen/g21/085/64/pdf/g2108564.pdf?token=c0v3VvBhn1SlmGvnlz&fe=true

[247] www.osce.org/files/f/documents/6/8/302796.pdf

[248] https://documents.un.org/doc/undoc/gen/g21/085/64/pdf/g2108564.pdf?token=hlcoscXBuYvdsalx5s&fe=true

[249] Ibid. (paragraph 4).

[250] https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/documents/Cybersecurity_for_Elections_PDF_0.pdf?VersionId=VzFA_vIHTR_q_SEJbDsVF.ErLR5I_QMH (pp. 111-125).

- **Self-regulation by platforms**: Encourage social media platforms and other intermediaries to adopt transparent, self-regulatory measures rooted in international human rights law in order to help address misinformation without infringing on free speech. This includes mechanisms for users to report misleading content, fact-checking partnerships and clear policies on content moderation.
- **Support for independent journalism**: Strengthen independent journalism to help provide accurate information and counter misinformation. Support for diverse and independent media outlets ensures the public has access to a variety of perspectives and well-researched news.
- **Safety of journalists**: Ensure journalists are able to do their jobs without fear of repercussions to enable a diverse and free media to establish trust among citizens and therefore combat mis- and disinformation.
- **Collaborative efforts**: Collaboration between government, civil society, media organisations and technology companies is viewed as essential in developing effective and rights-respecting strategies to combat misinformation.

Recommendations:

- In order to uphold freedom of expression, the government and the National Assembly should consider amendments to the PEMRA Ordinance and Code of Conduct to ensure they are in line with international law.
- In order to counter mis- and disinformation, the ECP, PEMRA, the media, social media platforms, civil society and other relevant stakeholders should consider collaborating on non-coercive efforts to combat mis- and disinformation, such as the establishment of mechanisms for the reporting of disinformation to platforms, and protocols on maximum response times.
- The ECP and political parties should consider an amendment to Section 44 of the Code of Conduct to include provisions on AI and deepfakes in election campaigns.
- The ECP should take proportionate and timely action against political parties and candidates who violate Section 44 of the Code.
- Political parties should consider producing an awareness campaign with their supporters, aimed at enhancing public understanding of the harms of disseminating various forms of disinformation.
- In order to take long-term action to address mis- and disinformation, the Ministry of Federal Education and Professional Training should work with media houses and federations to enhance media literacy among Pakistan's youth, including through the introduction of media literacy in schools. Such efforts should be incorporated into broader efforts to provide enhanced civic education among Pakistan's youth.

Prior to the 2023 amendments to the Ordinance, PEMRA had issued directives that, in effect, prevented broadcasters from airing speeches by Imran Khan, on the basis that they constituted hate speech and other proscribed language.[251] The PEAM was informed that, in practice, Mr Khan's name could not be stated on broadcast content, with broadcasters instead required to refer to the '[former] PTI Chair'. It is important to note, however, that this practice is not new; during the previous government, the media was reportedly prevented from mentioning former Prime Minister Nawaz Sharif's name.[252] In both cases, it is difficult to understand on what legal basis such a directive could be issued. Advocates for media freedom argue that, while PEMRA should ensure channels adhere to the law and refrain from allowing hate speech, PEMRA appears to have issued directives that stray from apolitical content moderation.

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[251] https://www.theguardian.com/world/2023/jun/13/pakistan-media-decry-de-facto-ban-on-giving-airtime-to-imran-khan

[252] https://www.dawn.com/news/1591191

Defamation law

Defamation is both a civil and a criminal offence in Pakistan, with the former offence provided for by the Defamation Ordinance 2002and the latter by Sections 499–502 of the Penal Code 1860. The Group understands that, as a result of the 18th Amendment to the Constitution Act (2010), defamation law is enacted at the provincial level.

Article 19, an INGO advocating for freedom of expression, states that, 'The clear view of both international jurisprudence and of the international bodies that have considered the matter is that the imposition of custodial sanctions through criminal defamation laws is disproportionate and unnecessary to protect individual reputations, particularly when alternative measures – including apologies, corrections and the use of the right of reply – can effectively address any harm to reputation without exerting a chilling effect on freedom of expression.'[253]

Both Pakistani CSOs and the international community have recommended that Pakistan remove criminal defamation from statute. In 2022, the Pakistan Federal Union of Journalists submitted an *amicus curiae* to IHC in which it proffered numerous arguments against criminal defamation, including that such a law does not constitute a 'reasonable restriction' on freedom of speech and expression, and that such a law 'should not be allowed to be an instrument of the State'.[254] The DRF and the Human Rights Commission of Pakistan have both echoed these calls.[255]

In February 2022, during the government of then-Prime Minister Imran Khan, a Presidential Ordinance amending PECA was passed to make online defamation of authorities (Section 20), including the military and judiciary, a criminal offence. The Ordinance provided that anyone found guilty of spreading 'fake news' or defaming government departments and officials could be arrested on a non-bailable arrest warrant and sentenced to five years in prison. The amendment was the subject of judicial scrutiny in both the provincial and the federal courts. The Ordinance in general, and Section 20 in particular, was deemed unconstitutional by IHC, and was therefore rescinded.[256]

Recommendation:

- The government, the National Assembly and Provincial Assemblies should consider amendments to the Penal Code and any other relevant legislation to remove criminal defamation.

Citizens Protection (Against Online Harms) Rules 2020 and Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules 2021

The Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules 2021 were formulated pursuant to Sections 37 (2) and 51 of PECA 2016. As with PECA, some stakeholders raised concerns about the breadth and subjectivity of terms such as 'security of Pakistan', 'glory of Islam', 'decency and morality' and 'integrity or defence of Pakistan'. The Rules empower the PTA to remove or block any online content in the name of violation of these terms. Likewise, the Citizens Protection Rules confers the PTA with similarly broad powers with regard to the removal of content on social media. Article 19, an international organisation focused on freedom of expression, as well as David Kaye, erstwhile United Nations Special Rapporteur on Freedom of Expression, have both raised concerns regarding broad definitions contained in the Rules, as well as the lack of independence of the PTA, in whose name these powers are vested.[257]

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[253] www.article19.org/data/files/pdfs/analysis/defamation-standards.pdf

[254] www.law-democracy.org/live/wp-content/uploads/2023/03/PFUJ-Brief-Criminal-Defamation.pdf

[255] https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2022-Joint-submission-for-Pakistans-fourth-UPR.pdf; https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=10764&file=EnglishTranslation

[256] www.ifj.org/media-centre/news/detail/category/press-releases/article/pakistan-peca-ordinance-overruled-by-islamabad-high-court

[257] www.article19.org/resources/pakistan-online-harms-rules/; www.ohchr.org/sites/default/files/Documents/Issues/Opinion/Legislation/OL_PAK.pdf

Recommendation:

- The government and the National Assembly should consider amendments PECA, the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules and the Citizens Protection (Against Online Harms) Rules in relation to content moderation and removal in order to bring these provisions in line with Article 19 of the ICCPR and General Comment No. 34.

Right of Access to Information Act

Article 19A of the Constitution, introduced via the 18th Amendment, guarantees the right to information and enables citizens to access information held by public bodies, subject to reasonable restrictions imposed by law. This provision was a positive step towards enhancing transparency and empowering citizens to hold the government accountable.[258] The Right of Access to Information Act (RTI Act) was passed in 2017.

The Group is aware of reports that the Registrar Office of the Supreme Court, the ECP and other constitutionally established institutions have resisted disclosing information under the federal RTI Act 2017, arguing that it does not apply to bodies established by, or under, the Constitution.[259] In October 2023, the Supreme Court ruled that the Act did not apply to it.[260] A report released by Transparency International Pakistan on the 'State of Implementation of Proactive Disclosure, Federal Right of Access to Information Act 2017' noted gaps in implementing the proactive disclosure provisions among the departments and the ministries of the federal government.

Recommendation:

- The government and the National Assembly should consider an amendment to the RTI Act to stipulate that the ECP and other bodies established by the Constitution are subject to the provisions of the Act.

Official Secrets Act

In August 2023, Pakistan's National Assembly passed the Official Secrets (Amendment) Bill. The amending law broadens the definitions of military installations and brings digital and other modern means of communication into the law's ambit, with possible implications for vloggers and bloggers. The definition of a 'document' has been widened, by including 'any written, unwritten, electronic, digital, or any other tangible or intangible instrument' related to the military's procurements and capabilities.

Journalistic freedoms and safety

The Government of Pakistan introduced the Protection of Journalists and Media Professionals Act (Journalists Act) in 2021, to protect the rights and safety of media professionals in response to rising threats and assaults against journalists in Pakistan. The Sindh Provincial Government passed its own Protection of Journalists and Media Practitioners Act the same year.

The federal Act has, however, been criticised for the obligations it places on journalists to comply with its provisions. Section 6 of the Act states that journalists 'must… not produce material that advocates… hatred, [or] which may constitute incitement to discrimination, hostility or violence'. Journalists are also prevented from sharing information 'known to be false'. Reporters Without Borders notes that the Act does not clearly define any of these terms, thus allowing for the arbitrary determination of what constitutes (e.g.) 'incitement'. Furthermore, Section 6 (3) of the Act states that journalists who fail to comply with these provisions 'will be tried in accordance with the relevant laws'. Thus, Reporters Without Borders concludes that, 'Section 6 of this law neutralises virtually all the protection that it was supposed to provide when first announced by the government.'[261]

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[258] www.dawn.com/news/1776292

[259] Ibid.

[260] www.dawn.com/news/1781486

[261] https://rsf.org/en/pakistan-imposes-new-censorship-mechanism-under-guise-protecting-journalists

In 2024, Reporters Without Borders ranked Pakistan 152 out of 180 countries on the World Press Freedom Index.[262] Since 2007, Pakistan has been placed on the Committee to Protect Journalists' Global Impunity Index, at 10th out of 11 countries ranked.[263] The Pakistan Press Foundation (PPF) noted 'multiple incidents' targeting journalists in the lead-up to the 8 February 2024 poll. These included the assault and harassment of journalists, mainly during political rallies, and apparently deliberately targeted media practitioners. The PPF reported that the attacks were mostly by PML-N supporters, but noted that in one incident PPP supporters assaulted a journalist. The PPF also reported the online harassment of a television anchor, apparently by PTI supporters, which the Human Rights Commission of Pakistan later condemned.[264]

In December 2022, a United Nations report reflecting on the United Nations Plan of Action 2012–2022 for Pakistan found the country had partly delivered on promises to improve the safety of journalists, mostly through the efforts of civil society, the media and the United Nations since 2012, but that new laws needed to be effectively implemented to ensure perpetrators of attacks on journalists are held to account. The report found various relevant stakeholders had taken 'significant actions' to implement the Plan, giving the country an overall score of 1.64 out of 3.[265]

The report found the most significant progress had been made in the areas of awareness-raising (2.3/3), capacity-building (1.6/3) and coalition-building (1.6/3). Progress was limited in relation to standard-setting and policy-making (1.4/3) and monitoring and reporting (1.3/3), and, despite the passage of the Journalists Act, the Independent Commission for the Protection of Journalists had not been established, and that 'not a single journalist had benefited' from the law as of November 2022, around a year after the Bill was passed into law.

The report also noted that tackling impunity for attacks on journalists would represent a litmus test for the country's progress since 2012. However, 'While Pakistan may have taken the first few right steps denoting forward movement on implementing the UN Plan of Action, the journalists in Pakistan continue to be victims of violence and crimes with near impunity.'[266] A 2022 report by Freedom Network found that, of the 53 murders of journalists between 2012 and 2022, 26 cases went to trial, with the prosecution and trials reaching completion in 12 instances, resulting in 2 convictions.[267]

The report found that most of the progress made in recent years owed to the efforts of Pakistani journalist bodies, civil society, NGOs, INGOs and IGOs such as the United Nations. Conversely, the report scored state institutions and political actors at just 1.1 out of 3 for their efforts since 2012.[268]

Recommendations:

- The government and the National Assembly should consider expunging Section 6 of the federal Protection of Journalists and Media Professionals Act, such that the Act does not place obligations on journalists as a precondition for being protected.
- The government should establish the Independent Commission on the Protection of Journalists and Media Professionals, as envisaged by Section 12 of the Act, and should ensure it is appropriately resourced to undertake its work. In line with the provisions of the Act, the envisaged Commission should work with state institutions and political actors to enhance monitoring and reporting of attacks on journalists.
- In furtherance of the provisions of the Protection of Journalists Act and the United Nations Plan of Action on the Safety of Journalists, the government should work with law enforcement, the ECP, media rights groups and Pakistani media unions and federations to investigate and bring to justice perpetrators of violence against journalists, especially during the elections.

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[262] https://rsf.org/en/country/pakistan

[263] https://cpj.org/wp-content/uploads/2022/10/CPJ_2022-Global-Impunity-Index.pdf

[264] www.pakistanpressfoundation.org/pakistan-press-foundation-condemns-attacks-on-the-media-ahead-of-elections-emphasizes-role-of-media-in-electoral-process/

[265] https://irada.org.pk/wp-content/uploads/2022/12/UN-Plan-of-Action-Assessment-Report-IRADA-2022.pdf

[266] Ibid. (p. 11).

[267] www.fnpk.org/wp-content/uploads/2022/10/FINAL-Impunity-Report-2022.pdf

[268] Ibid. (pp. 11-12).

- Media owners and unions should invest resources and build capacity in relation to the monitoring and provision of journalist and media practitioner welfare.
- Political parties should ensure their supporters adhere to the ECP Code of Conduct for Political Parties, Contesting Candidates and Election Agents, specifically Sections 10 and 15 relating to violence and/or exerting influence on the media.
- Law enforcement should ensure timely and consistent enforcement of all laws pertaining to the safety of journalists.

Media independence and government advertising

The Group was informed that, although independent in principle, state sector advertisements and legal announcements represent a significant portion of private sector media revenue, and state subsidies and tax breaks offer additional incentives for maintaining good relationships with successive governments. As such, the Group was told that information ministries at the provincial and national levels can use advertising revenue as leverage to influence editorial decisions, and media outlets seek to avoid exposing themselves to financial reprisals by the government or influential officials. As Freedom Network notes, 'Various parts of the government, particularly security and intelligence agencies, use this leverage to make media houses follow an official line,' especially on security and foreign policy issues.[269] Thus, the risk of salary cuts when media employers are in financial difficulties can encourage self-censorship.[270]

Media ownership

According to Freedom Network's 2018 Media Ownership Monitoring, over a period of several decades, the ownership of Pakistan's media has, for the most part, transferred from 'individuals, political organizations and cultural and social movements to… private limited firms'. Yet, despite the diversity in ownership structures, Freedom Network notes that many of these firms are ultimately owned by a small number of individuals or families.[271] The report also notes that, at times, there has existed a form of *quid pro quo* relationship between media outlets and Pakistan businesses, with the latter able to provide supplemental capital to media outlets with high operational costs.[272]

Recommendation:

- Provincial and federal governments should consider strengthening media laws to ensure the distribution of government advertisements in the media not take into consideration editorial content. The government and the National Assembly may wish to consider the establishment of a joint state and media advertising agency that allocates government advertising in a fair and equitable manner, for instance on a rotational basis.

Media coverage of the 2024 campaign

The Group's media monitoring was limited to English language media. Therefore, the Group appreciates that its findings do not include an analysis of the majority Urdu language media in Pakistan.

The Pakistani English language mainstream media provided coverage of the elections, and broadly followed the principles of fair and accurate election reporting. However, some sections of the media covered some candidates and political parties more favourably than they did others, with PTI-affiliated independent candidates receiving less positive coverage in national mainstream media.

The Group notes that election coverage by the state-owned Pakistan Television Corporation lacked balance, with the majority of its coverage concentrated on PML-N and the PPP – especially the former –

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[269] https://pakistan.mom-gmr.org/en/owners/individual-owners/

[270] https://rsf.org/en/country/pakistan

[271] https://pakistan.mom-gmr.org/en/owners/companies/

[272] Ibid.

while independent candidates representing the *de facto* suspended PTI were not given as much coverage. In addition, as noted above, the Group was informed that broadcasters were prevented from saying Imran Khan's name, instead being instructed to refer only to the Chair of PTI.

Recommendations:

- Media houses should ensure they provide equitable coverage of all political parties and candidates.
- PEMRA should ensure equal application of legal and regulatory provisions related to campaign media coverage, and that there are no undue restrictions imposed on the media's freedom of expression in respect of campaign coverage.

Silence period

The Group notes that, even though there was a ban on campaigning on the eve of polling, some English language newspapers published obvious campaign messages of PML-N and its leader on 7 February. For example, a frontpage headline in The Express Tribune read, 'Choose progress over lies, Nawaz urges public.' This was clearly campaigning for the PML-N leader. Despite The News running a story on its front page regarding the fact the campaign period had ended the previous day (6 February), it had a story on its same page headlined, 'Nawaz says Pakistan to become Asian Tiger,' running campaign promises made by the PML-N leader. Additionally, neither article contained any positive mentions of any other parties, and therefore lacked balance.[273] The same story was carried by The Nation on the same date.

Recommendations:

- Media houses should ensure full compliance with the silence period.
- Relevant media regulators and the ECP should take appropriate action against media houses that violate the silence period or other provisions of the media Code of Conduct.

Social media campaigning

According to Datareportal, Pakistan had 110 million internet users as of early 2024, representing internet penetration of 45.7 per cent. There were also 72 million social media users as of January 2024, equivalent to just under 30 per cent of the population (although social media users may not represent unique individuals).[274] YouTube (71.7 million), TikTok (54.4 million), WhatsApp (52.3 million) and Facebook (44.5 million) are the most used social media sites in Pakistan.[275]

The main political parties, candidates, independents and their supporters made use of social media throughout the campaign to disseminate their messages. The Group was informed that Pakistan's relatively low literacy rate (52 per cent)[276] was a significant reason for the use of video-sharing platforms for the dissemination of news and campaign-related videos and advertisements. By contrast, X (formerly Twitter), which is primarily a text-based platform, has just 4.5 million users[277] (equivalent to 1.87 per cent of the population). The Group was informed that this platform tended to be used mainly by the country's intelligentsia.

The Group was also informed that social media provided an alternative means of campaigning for those candidates who had failed to receive significant coverage in traditional media, including those from relatively smaller parties. For example, Zeba Waqar, a candidate for JI, made use of her 17,500 followers on YouTube to campaign. Speaking to Dawn, she said, 'Electronic media does not give us much coverage, so my husband and I decided to create the channel.'[278] Additionally, some stakeholders informed the Group that social media provided a way of reaching voters while avoiding biased or unfavourable coverage in traditional media.

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[273] www.thenews.com.pk/print/1155307-nawaz-says-pakistan-to-become-asian-tiger

[274] https://datareportal.com/reports/digital-2024-pakistan

[275] Ibid; https://worldpopulationreview.com/country-rankings/whatsapp-users-by-country

[276] www.macrotrends.net/global-metrics/countries/PAK/pakistan/literacy-rate

[277] https://datareportal.com/reports/digital-2024-pakistan

[278] https://www.business-standard.com/world-news/pakistan-elections-how-women-candidates-are-fighting-for-change-in-polls-124020700489_1.html

The ECP and the media

The legal framework places three broad requirements on the ECP in terms of its interaction with the media: voter awareness, electronic media regulation and information-sharing.

In the first instance, Section 12 (c) of the Elections Act requires the ECP to provide voter education on the role and mandate of the ECP and on voter registration, voting procedures and election integrity. Section 12 (c) further requires the ECP to develop targeted voter education for marginalised groups. The above necessitates co-operation with the media on the development of special articles and content.

As addressed further up this chapter, the ECP also has a regulatory function with respect to electronic media. In October 2023, the ECP released an 18-point Code of Conduct for the national media, outlining various guidelines journalists must adhere to during the campaign and polling. This applies to print, electronic and digital media and social media influencers. The Code was in addition to the 31-point Code of Conduct issued for foreign media and observers.

The ECP specified that the media should refrain from expressing biased opinions that undermine Pakistan's ideals, sovereignty, security and independence, and the integrity of the judiciary and other national institutions. Furthermore, any statements or accusations that pose a threat to national unity and the law and order situation will be strictly prohibited from being broadcast. These provisions are reflective of language used elsewhere in Pakistan's legal framework, including the PEMRA Act. As noted further up this chapter, the vagueness and breadth of some of these terms appear to place the Code in conflict with constitutional rights on freedom of expression, as well as Article 19 of the ICCPR.

Whereas the Code mandates the relevant state institutions to assist the ECP with its work, it does not make the same provision for the ECP to provide information to the media in a timely fashion or when required to do so by journalists. Indeed, a number of media stakeholders with whom the Group met expressed concern regarding the ECP's transparency with the media, and its timeliness in respect of the sharing of information. Although the ECP insisted it was collaborating well with the media, several media stakeholders told us that the ECP would not give them information on time, and on occasion would not respond to their queries.

Recommendation:

- In the spirit of co-operation, the ECP should consider either amendments to the media Code of Conduct or the development of an MoU with the media that sets out the ECP's obligations to the media in relation to the timely and transparent release of information.

Mobile services suspension

Mobile and internet 'kill switches', referring to a process called 'general removal of transit', occur when mobile and internet service providers shut down or restrict access to these services, or to specific websites, either nationally or in specific areas of a country, by order of the government. General removal of transit of these services is contrary to United Nations Human Rights Council Resolution A/HRC/RES/32/13, which 'condemns unequivocally measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and calls upon all States to refrain from and cease such measures'. Similarly, a 2015 Joint Declaration of the United Nations, the OSCE, OAS and ACHPR stated that, 'Filtering of content on the Internet, using communications "kill switches" (i.e. shutting down entire parts of communications systems) and the physical takeover of broadcasting stations are measures which can never be justified under human rights law.'[279]

In terms of Pakistan's legal framework, Article 19 of the Constitution guarantees freedom of expression, while Article 19A guarantees access to information, 'subject to regulation and reasonable restrictions imposed by law'. Section 54 of the Pakistan Telecommunication (Reorganisation) Act 1996 states that, 'Upon proclamation of emergency by the President, the Federal Government may suspend or modify all or any order or licences made or issued under this Act or cause suspension of operation, functions or services of any licensee for such time as it may deem necessary.' Section 37 of PECA allows the government to 'remove or block or issue directions for removal or blocking of access to an information through any information system if it considers it necessary in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof'. Various regulations, including Section 6 of the Removal Blocking of Unlawful Online Content Rules 2021, provide for the blocking of access to information under certain circumstances.

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[279] www.ohchr.org/en/statements/2015/05/joint-declaration-freedom-expression-and-responses-conflict-situations

As noted further up this chapter, internet disruptions were detected by Netblocks on 17 December 2023 and 7 and 20 January 2024, each coinciding with a PTI online Jalsa. In response to these disruptions, Sindh High Court directed the federal government and the PTA to ensure uninterrupted internet access throughout the election unless such an action could be justified in terms of the above laws.[280]

On election day, cellular services were shut down throughout the country, with the Minister of the Interior stating that, 'Security measures are essential to maintain the law-and-order situation and to deal with potential threats.'[281] Such a statement would appear to fall short of the law's requirement for a 'proclamation of emergency by the President'. Netblocks detected that access to Facebook, Instagram, YouTube and X were also disrupted throughout the country.[282] At the time, neither the PTA nor the federal government issued statements in relation to the blocking of access to these websites.[283]

These disruptions affected every electoral stakeholder in one or more ways. By preventing communication over cellular networks, domestic and citizen observers were unable to share information; candidates and agents were unable to communicate; voters were unable to communicate with one another, such as to arrange transportation to and from polling stations; polling staff faced challenges in communicating with each other; citizens' constitutional rights of freedom of speech and freedom of information were curtailed; and media freedoms were also impacted. On 12 February, the ECP appeared to confirm that the failure of its EMS in terms of digital results transmission throughout the country on election day was linked to the cellular network disruptions.[284] This in turn had additional downstream effects, including manual counts, delayed results tabulation and reduced transparency in the transmission and tabulation processes (see Chapter 6 for more detail).

In the post-election period, while cellular services resumed before long, access to X remained at least partially blocked for a number of months, thus representing prolonged suppression of freedom of speech. The Group notes that many X users made use of virtual private networks in the post-election period in order to continue using the site, including to circulate videos and photos apparently showing evidence of election interference.

Two weeks after the election, Sindh High Court ordered the PTA to restore access to X, and sought explanations for the cellular disruptions on election day.[285] Two months after the election, the Ministry of Interior acknowledged before a court the state's role in the disruptions to certain platforms for the first time, noting that these were necessary in the interests of national security. The Ministry cited confidential reports from the intelligence agencies that apparently pointed towards 'hostile elements operating on Twitter/X hav[ing] nefarious intentions to create an environment of chaos and instability, with the ultimate goal of destabilising the country and plunging it into some form of anarchy'.[286]

Amnesty International labelled the disruptions a 'reckless attack on people's rights' as well as a 'blunt attack on the rights to freedom of expression and peaceful assembly'. Amnesty also regarded the so-called shutdowns as designed to disrupt the country's opposition parties and their followers in the lead-up to the elections in the country.[287] The Committee to Protect Journalists stated, 'These heavy-handed measures raise serious questions about Pakistan's commitment to democracy and human rights. A free and fair election requires independent media reporting and unhampered access to information.'[288]

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[280] www.dawn.com/news/1808252

[281] https://www.aljazeera.com/news/2024/2/8/inherently-undemocratic-pakistan-suspends-mobile-services-on-voting-day

[282] https://twitter.com/netblocks/status/1756283124978257991/photo/1

[283] Ibid.

[284] https://ecp.gov.pk/storage/uploads/1Kbhli9OAjqn3vOkInxjr3wKOSIfpuI8i8ZqBmoX.pdf

[285] www.dawn.com/news/1816019

[286] www.aljazeera.com/news/2024/4/17/pakistan-says-it-blocked-social-media-platform-x-over-national-security

The Group is deeply concerned by the disruptions to cellular services and social media platforms on and after election day. These disruptions had negative impacts on both fundamental political rights and the transparency and integrity of the process. The Group appreciates that intelligence agencies may have information on legitimate national security threats, but is concerned that the confidential nature of such information has the effect of providing the government with an unfalsifiable reason to disrupt or block services as and when desired.

Where national security exigencies warrant the state to limit or curtail political freedoms and negatively affect the transparency of the electoral process, the Group avers that any such actions should be necessary, proportional and timebound. It appears that the government's actions, at one time or another, did not always seek to strike a balance in line with these principles. The Group is also concerned at the apparent willingness of the government to ignore orders of federal high courts.

Recommendations:

- The government and the National Assembly should consider an amendment to relevant laws and regulations that would require the government to seek an emergency court order for the general removal of transit of mobile or internet services, with any resulting orders being necessary, proportional and timebound.
- The government and regulatory bodies should ensure compliance with court orders in relation to general removal of transit.

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[287] www.amnesty.org/en/latest/news/2024/02/pakistan-election-day-internet-shutdown-is-a-reckless-attack-on-peoples-rights/

[288] https://cpj.org/2024/02/cpj-condemns-phone-and-internet-disruptions-barring-of-journalists-during-pakistan-election/

6. Voting, Counting and Results Process

A total of 128,585,760 registered voters were eligible to cast their votes in the 2024 general elections. Polling was scheduled to occur from 08:00 to 17:00 in 90,675 polling stations across 266 constituencies. On election day, National Assembly elections occurred in only 265 seats as opposed to 266, owing to the death of an independent (PTI-affiliated) candidate.[289]

Polling station staffing

A total of 1,107,622 polling staff were deployed for the 2024 general elections, including 96,971 POs. In addition, there were 1,186 DROs, ROs and AROs.

As per Section 193 of the Elections Act, DROs and constituency ROs were granted the powers of a magistrate first class for the election period until the consolidation and announcement of results,[290] while polling station POs were granted similar powers, but limited in duration to a three-day period over election day.[291] Army officers deployed to provide security at polling stations were granted similar powers for the period of their deployment.[292]

Each polling station was assigned a POs, two Assistant Presiding Officers and polling clerks. Party agents and accredited citizen and international observers were also authorised to be present at polling stations. Each RO was assigned four data entry clerks.

Ballot paper procurement

In this election, the ECP used three security printing firms in the country to print the ballot papers: the Security Printing Corporation, the Pakistan Postal Foundation and the Printing Corporation of Pakistan. Between 16 January and 4 February 2024, they printed a total of 260 million ballot papers for this election, comprising 2 ballot papers (National Assembly and Provincial Assembly) for each of the 128 million registered voters (except ICT, whose residents do not vote in provincial elections).[293]

The Group understands the ECP continued its practice, first adopted in 2018, of incorporating watermarks into the ballot papers for security reasons. The ballot papers also contained the names of the candidates and political parties and their symbols but not photographs of the candidates. Given the country's high illiteracy rate, the ECP may wish to explore the possibility of including photos of the candidates on the ballot paper in order to allow voters to quickly identify the candidate of their choice.

The Group was not made aware of any significant concerns regarding the design or procurement processes related to the printing of ballot papers.

Pre-poll activities

Prior to election day, the Group observed preparations by local election officials, including the collection of sensitive materials from distribution centres and the setting-up of polling stations. While POs were able to collect their materials without significant issue, the Group noted that the distribution centres were very crowded, and many would have waited for hours for their turn.

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[289] Delayed elections affected one national constituency, when independent candidate Rehan Zeb Khan, running for National Assembly constituency NA-08, was killed. The remaining provincial constituencies were in KP and Punjab.

[290] ECP Notification, 26 January 2024. https://ecp.gov.pk/storage/uploads/A7g0LUSVfhtBCfApLMdDEqFcWy8koDIPZGD701Vd.pdf

[291] ECP Notification, 30 January 2024. https://ecp.gov.pk/storage/uploads/DR5NJRo0z7YqnzKkYipqUPPfBSLsw3a3ZYztnj5H.pdf

[292] ECP Notification, 25 January 2024. https://ecp.gov.pk/storage/uploads/KZNRptHYW2uukcbAyAcplc37olslPHrd9xl4jMuK.pdf

[293] www.app.com.pk/national/ecp-to-complete-ballot-paper-printing-till-february-2/

Recommendation:

- The ECP may wish to trial a staggered collection system at distribution centres in order to limit the overcrowding of POs and other polling staff, with POs provided timeslots to collect their materials. This could help limit the possibility of irregularities in the distribution of materials, make for a calmer working atmosphere for those orchestrating the distribution and reduce the length of time POs spend at the distribution centre. The ECP may also wish to consider establishing additional distribution centres to spread the workload.

The Group observed that polling materials were kept securely in polling stations and safeguarded through the night preceding election day. Polling officials were generally well prepared and, for the most part, polling stations were equipped with requisite polling staff and materials. The Group observed that pre-polling procedures were largely followed. The Group commends the ECP, the temporary workforce of over 1 million personnel, and police and military personnel for their respective roles in ensuring generally smooth preparations for the elections.

Polling station selection, layout and secrecy of the ballot

The ECP is responsible for ensuring the integrity and secrecy of the ballot through the selection and layout of polling units. The ECP selects polling units based on population density, accessibility and registered voter numbers. Section 59 of the Elections Act includes certain specifications in respect of the selection of polling stations, including that voters should not have to travel more than 1 km; that each polling station must be in either a government building or a private educational building; and that there should be no more than 1,200 voters registered to each polling station and 300 to each booth.

There were three types of polling stations: separate stations for male and female voters and mixed polling stations. Women-only polling stations were administered by women polling staff.

The layout of polling stations generally ensured that the secrecy of the ballot for voters was assured, as all the ballot booths had proper screens. Also, the positioning of the booths optimised space and ensured efficient voting flow. However, it was noted that, in some polling stations, CCTV cameras were located above the booth in a manner that could have compromised the secrecy of the ballot.

Recommendation:

- For future elections, the ECP should seek to position voting booths and CCTV cameras in such a manner that the secrecy of the ballot is assured.

The Group noted the presence of candidate lists posted outside polling stations and near the polling booths so that voters could see the names, numbers and symbols of the candidates in their constituency.

Assessment of opening of polls and conduct of voting

Below is a summary of key observations regarding the opening of the polls and the conduct of voting:

- Polling stations generally opened on time. Some stations experienced minor delays in opening, for various reasons, including POs in some instances delayed by the late arrival of party agents at polling stations for the sealing of ballot boxes prior to the opening of polls. In other cases, this owed to polling agents continuing to set up polling stations beyond 07:00.
- Polling staff were, for the most part, professional and diligent in carrying out their duties. We observed, however, that in some instances procedures were not entirely adhered to.
- The processing of voters was slow in some instances.
- The allocation of separate polling stations and booths for women with only women staff was commendable.
- Each polling venue had more than one polling station, to reflect male, female and combined polling stations.

- Generally, the polling stations had sufficient room, but the Group observed that a few polling stations were small and overcrowded.
- While the provision of both ballot papers to voters at the same time saw some instances of voters placing both in the same ballot box, it was commendable that the ECP allowed polling staff to treat such stray ballots as valid votes, and that party agents collectively agreed to count them.
- Voter verification was carried out by comparing the face of the voter with photos of the voter on the CNIC as well as the electoral roll, and thumb impressions were obtained on two separate documents. This protected against impersonation voting.
- When voters place a thumbprint on the ballot and thereafter used the ECP stamp to cast their vote, there were some instances in which ink from either the thumbprint or the ECP stamp spread to other parts of the ballot paper after it was folded. This led to cases of these votes being rejected as invalid during the count.
- It was noted that, in some instances, voters did not use the ECP stamp, and used the thumbprint to mark the ballot paper. These votes were deemed invalid.
- There was no clear procedure to determine progressive voter turnout at polling stations throughout the day. It should be possible for media, party agents and observers to obtain such information from polling staff. One international good practice is for POs to record hourly turnout in a diary.
- There is currently no provision in law for ROs or POs to vote early, and Section 93 of the Elections Act in relation to categories of individuals that are eligible for postal voting could benefit from additional clarity.

Recommendations:

- In order to reduce instances of voters casting their ballot in the incorrect box, the ECP could consider assigning an existing polling staff member to guide voters in placing their ballots in the correct box.
- The ECP should consider introducing a protocol whereby POs must record hourly voter turnout in their election diary, and make this information available, on request, to the media, party agents and observers.
- Following consultations with the ECP, the government and the National Assembly should consider amendments to the Elections Act to provide for early voting for all polling staff as well as law enforcement, the armed forces and other emergency service personnel. Additionally, Section 93 of the Elections Act should be amended to provide additional clarity on the eligibility of the above categories of people to vote via postal ballot.

Noting the considerable size of the electorate, the Group is conscious that the printing of 260 million ballot papers for every general election has a significant impact on sustainability and the environment. The Group is conscious of the attendant cybersecurity challenges associated with the adoption of electoral technologies for the voting and counting processes, including the technical, legal, social and human dimensions of such challenges. In addition, the Group appreciates that the failure of electoral technologies in both 2018 and 2024 may limit public confidence in the adoption of additional technologies for future elections.

The Group notes that the ECP and some politicians in Pakistan have previously discussed alternative mechanisms to automate the voting and counting process, and is aware of the ECP's justifiably cautious approach to the adoption of additional technologies. Nonetheless, the Group encourages the ECP to undertake feasibility studies to ascertain whether the attendant cybersecurity risks of electronic voting machines can be sufficiently mitigated to allow for the adoption of more sustainable and environmentally friendly methods of voting. Such studies should be transparent and inclusive, with academia, information security experts and CSOs invited to be part of this process.

Recommendation:

- The ECP may wish to undertake feasibility studies in relation to the adoption of electronic voting machines, which could represent a more sustainable and environmentally friendly method of voting. The ECP should solicit the views and advice of academia, information security experts and CSOs during this process.

Polling station 'camps'

Clause 49 of the Code of Conduct contains provisions regarding party 'camps', as follows:

> *The political parties, candidates, election agents or their supporters may establish camps beyond the radius of 400 meters in rural areas and 100 meters in densely populated urban areas from the polling stations on the polling day.*

The Group observed these 'voter facilitation stations' or 'camps' outside polling stations often quite proximate to the polling station, meaning those visiting the stations can often be seen by queues of voters. These voter facilitation stations sometimes displayed party paraphernalia, in a possible violation of Section 177 of the Act, which limits campaigning within 400 metres of the polling station. These stations distributed information 'chits' to the voter, which they presented to the election official and which it was claimed assisted the election official to find the name of the voter on the electoral roll more quickly.

The Group considers that locating the voter on the roll should be a matter primarily for the election official, and parties should not have to take steps to facilitate the election process. In line with international good practice, the voter register can be ordered in such a way that the official can find any name without the need for outside assistance. Removing these stations would also prevent the possibility of voters feeling pressured to visit the station of a certain party. The Group accepts that party stations, and the process of providing chits to voters, is well established as a practice and is not prohibited, but encourages the ECP to consider whether this arrangement is necessary.

Recommendation:

- The Code of Conduct should be reviewed by the ECP, with assistance from political parties, to consider (i) whether political parties should be involved in issuing chits to voters that are used by election officials to locate the voter on the electoral roll; and (ii) whether the electoral roll could be prepared in a manner that facilitates a speedier identification of voters' names.

Participation, inclusion and accessibility

The Group observed significant presence of youth, including young women, as ECP officials and polling agents. The ECP is to be commended for establishing dedicated polling stations for women to facilitate the participation of female voters. The Group observed many female polling staff and polling agents, and that women police officers were also present among the security at some polling stations. This, again, is commendable.

The Group observed many PWDs voting on election day. Section 84 (9) of the Elections Act allows for incapacitated or visually impaired voters to receive assistance from a companion of their choice while casting their vote. The Group commends all polling staff and security personnel for being proactive in assisting and granting priority to PWDs, the elderly, and pregnant and nursing mothers, although it was noted that such assistance was not uniform. We observed some polling stations with concrete ramps for PWDs, but also noted the absence of ramps and other means of access at many polling stations. The Group noted a number of polling stations that were located above the ground floor, which made access difficult for the aged, those with certain physical disabilities, and pregnant and nursing mothers.

The Group encourages the ECP to continue their important work towards fostering the inclusion of PWDs in the electoral process, including through increased voter education on postal ballots (Section 93).

Recommendations:

- The ECP should conduct a thorough review of its polling stations to try and identify buildings with concrete ramps or other PWD-friendly means of access. All polling stations should ideally be on the ground floor.
- The ECP should provide additional training to polling staff regarding the assistance to be rendered to PWDs, the elderly, and pregnant and nursing mothers, so as to ensure such assistance is uniform.
- The ECP should expand its voter education to PWDs regarding the option to register for postal ballots.

Voter turnout

The total number of voters increased from 54.8 million in 2018 to around 60.6 million in 2024. This was driven primarily by the increase in the voter register from 106 million to 128 million. However, despite youth turning out in large numbers, total turnout as a percentage of registered voters decreased from 52.1 per cent in 2018 to 47.6 per cent in 2024.[294]

A number of reasons may account for the drop in turnout, including inclement weather conditions in northern parts of the country, fears over security in Balochistan and KP and perhaps also a degree of scepticism regarding the credibility of the elections.

On this last point, the Group noted the perceptions of some stakeholders that the elections had been 'rigged' in the pre-election period, including as a result of the non-allocation of a symbol to PTI, among other concerns. The health and vibrance of any democracy depends to a large extent on public belief in the integrity of democratic institutions and processes; perceptions of a degradation in such institutions are cause for significant concern. These issues are addressed further down this chapter, where the Group offers some recommendations.

Other factors relating to the administration of the election may also have contributed to lower turnout. The Group received numerous reports, and saw some evidence, that family members residing in the same household were registered to distant polling stations, some far away from their homes. According to a poll conducted by Pattan/Coalition 38, 15 per cent of voters were unable to cast their ballot owing to the 'fragmentation of votes of family members and communities to different and/or far-flung polling areas and even constituencies', or voters not being informed of changes to their assigned polling stations.[295] While the Group cannot attest to the accuracy of this poll, the issue of fragmentation was raised by some stakeholders and could have contributed to low turnout.

Security issues and the role of the police and armed forces

In accordance with Articles 218, 220 and 245 of the Constitution, together with Sections 5, 190 and 193 of the Elections Act, the ECP worked closely with law enforcement agencies and the armed forces and civil armed forces to ensure security before, during and after the elections. This included conducting pre-election security planning, the deployment of security personnel to polling stations and ballot paper printing facilities and the transportation of sensitive materials and ballot boxes both before and after the election. The armed forces were bound by a Code of Conduct that emphasised the need for neutrality and impartiality.[296]

The ECP instructed the armed forces to deploy, in what it termed Quick Reaction Force mode, to those polling stations identified as 'most sensitive'. The armed forces were also deployed in Mobile Vigilance Teams. The agreed protocol saw the police act as first tier responders, the civil armed forces as second tier responders and the army as third tier responders.[297] The Group notes the police and army were highly visible on and before election day. While the army was generally an unobtrusive presence, on a few occasions members appeared to assert themselves beyond their mandate, particularly relating to the movement of individuals around polling stations.

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[294] https://anfrel.org/2024-pakistani-general-election-fafen-analysis-of-voter-turnout/

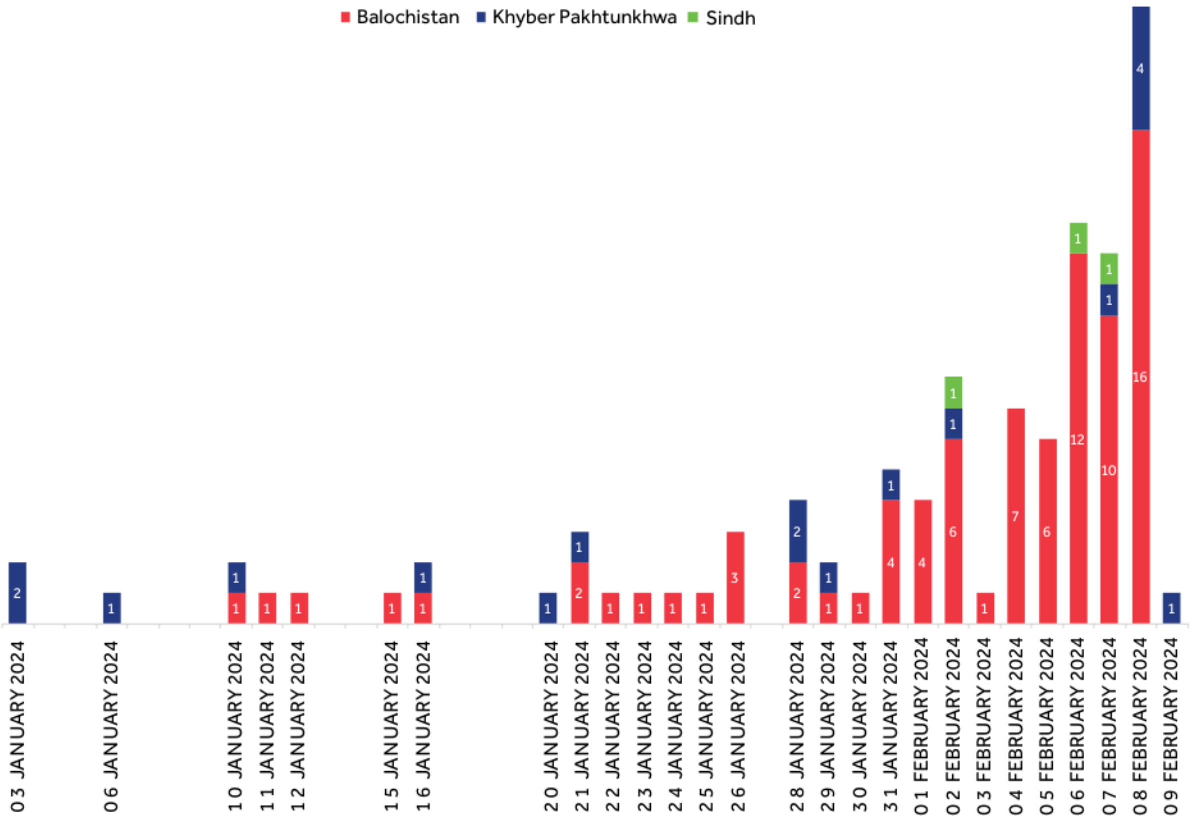
[295] Pattan-Coalition 38 Preliminary Election Observation Report, 9 February 2024.

[296] https://ecp.gov.pk/storage/uploads/ttopgyWi5j6usgpqE6CRRIOQZEG904LUNM1Mqvvv.pdf

[297] ECP Notification, 25 January 2024. https://ecp.gov.pk/storage/uploads/KZNRptHYW2uukcbAyAcplc37olslPHrd9xl4jMuK.pdf

On the eve of the election, ISIL carried out two suicide bombings outside political party offices in Balochistan. According to ACLED, there were 20 attacks on election day itself.[298] Other reports, including by the Global Network on Extremism and Technology, put the figure at 51 attacks and 12 fatalities.[299]

Figure 6.1 Election-related attacks by militants in Pakistan



Source: ACLED (2024)

One day prior to the election, Mir Aslam Buledi, a senior nationalist politician and PML-N's candidate for NA-258, was shot and critically injured by unidentified individuals on motorcycles, who later fled the scene. Two days after the election, PTI-endorsed independent candidate for PK-104 Kaleemullah Khan and at least three police officers were killed in North Waziristan, KP, in what was described as a targeted attack. The police stated that their car came under fire from 'unknown persons'.[300]

The Group appreciates the dangerous conditions in which these elections were being held, particularly in Balochistan, and regrets the tragic loss of life and injuries resulting from these election-related attacks. The Group does not underestimate the scale of the challenge confronting the ECP and security services in their efforts to hold a safe election. The Group also wishes to commend the bravery and professionalism of ECP staff and polling staff for their efforts to ensure voters were able to exercise their democratic rights.

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[298] https://acleddata.com/2024/02/14/acled-insight-election-related-violence-in-pakistan/

[299] https://gnet-research.org/2024/04/15/unveiling-terrorist-influence-the-case-of-pakistans-2024-general-elections/

[300] www.dawn.com/news/1804760; www.dawn.com/news/1804891

Role of party agents

Section 77 of the Elections Act states that contesting candidates or their election agent may appoint for each polling station as many polling agents as may be prescribed, and must give notice in writing to the PO.

Party agents were present, particularly those representing the larger political parties in their constituency. In some parts of the country, the Group observed that polling agents were not in the polling rooms for the voting but were instead in the courtyard of the polling venue. The reason given for their non-presence inside the room was lack of space.

As noted above, in some polling stations the opening of polls was delayed while they awaited the arrival of polling agents. Some polling agents appeared not to understand some parts of their role, such as noting the serial numbers of ballot box seals at the opening of polls and checking these were the same at the close of polls.

Recommendations:

- The ECP should ensure, to the extent possible, all polling stations have sufficient space to accommodate polling agents, ideally at desks so they are able to perform their duties with respect to marking voters off their copies of the voter register.
- Political parties should provide greater training to party agents so they better understand their role, including in relation to the opening and closing of polling.

Situation rooms

Ahead of the election, the ECP established a four-tier election monitoring process throughout the country. The purpose of this framework was to allow the ECP to monitor and act against electoral offences and instances of disinformation in real time. At the ECP main headquarters in Islamabad, the ECP established the Central Monitoring Control Centre (CMCC). In addition, the ECP appointed and trained all 32 Regional Election Commissioners to act as Regional Monitoring Co-ordinators (RMCs) for the election. RMCs were required to train DMOs and Monitoring Teams via cascading training sessions.

The ECP's CMCC included hi-tech equipment to allow for various types of 'informants' to submit data and information to the ECP in various forms. Types of informants included DMOs, who made use of the ECP's Digital Monitoring and Evaluation System; independent monitoring entities such as FAFEN; political parties, agents and citizens; and the media. Information could be submitted in the form of published reports, calls, SMS and written complaints, while print and social media were also monitored. This monitoring system was not only in operation for the administration of the election itself but also spanned the pre- and post-election periods, so as to enable stakeholders to submit complaints or concerns throughout each phase of the election.[301]

The Group had the opportunity to visit the CMCC in Islamabad, and also visited ECP and police monitoring centres across the country on and before election day. It is also noted that FAFEN co-ordinated reports from the field at its headquarters. CSO-led initiatives such as these should be encouraged, as they enhance co-ordination, operational efficiency and transparency in the process.

The Group commends the ECP for putting in place systems and processes for monitoring and acting against electoral offences. While the monitoring system no doubt enabled the ECP to take action on a number of offences during the election period, it appears that this system was unable to prevent or respond to various serious instances of interference and manipulation during the critical results transmission and tabulation phase of the election, as is discussed in greater depth further down this chapter.

Aside from the general failure of the EMS, which broadened possibilities for manipulation of results forms and Form 47, a significant contributing factor to the ECP's inability to respond in real time to instances of interference was likely the shutdown of the cellular network, which would have affected stakeholders' ability to communicate with the ECP and/or to transmit evidence of malfeasance.

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[301] https://ecp.gov.pk/initiatives/election-monitoring-control-central-emcc

Assessment of the closing and counting

In very simplified terms, the procedure for closing and counting was as follows. At 17:00, the PO sealed the entrance of the polling station and allowed only those people inside the polling station at the time of closure to cast their vote. Once all voters had cast their vote, the ballot box apertures were sealed. Observers and polling agents were invited to view the counting process, which began by staff reading aloud the seals on the ballot boxes before cutting them off.

Ballot boxes were emptied onto a table or the floor and polling staff sorted ballots into piles for each candidate, in view of party agents. Ballot papers were then counted, and each candidate's total number of votes was recorded on Form 45, while ballot reconciliation was recorded on Form 46. Poll agents were required to sign Form 45 and were thereafter issued with their own copies. The PO was due to upload Form 45 to the EMS in order to digitally transmit the results to the ECP and the RO, and then affix a copy of the results to a visible place on the outside wall of the polling station for public inspection.

A summary of key observations of the closing and counting is as follows:

- Polling stations generally closed on time, and those who were within the premises at the stipulated closing time of 17:00 were accorded the right to cast their ballot.
- The count at polling stations observed was generally managed efficiently by polling staff.
- In some cases, polling staff did not consistently read out serial numbers on seals, nor were these consistently cross-referenced by agents against serial numbers recorded in the morning.
- The PO manual appears to state that the reconciliation of the ballots (ballot paper account) should be conducted prior to the counting of the votes for each candidate.[302] This would be in line with international good practice. However, this process was not consistently adhered to; in some instances, the reconciliation was done after all votes had been tallied for each candidate.
- Disputes in relation to the counting of ballots, such as in relation to rejected ballots or discrepancies in the number of counted votes, were generally settled amicably.
- A simple procedure for counting votes was followed, although some good practices, such as showing each individual ballot to agents, were not followed.
- In some polling stations, lighting was poor, which impeded the counting process.
- The filling in of multiple copies of Form 45 took a considerable amount of time.
- Some party agents, especially party agents of defeated candidates, left the counting room without signing Form 45.
- Members of the COG were asked to sign Form 45, pursuant to Section 90 (12) of the Elections Act. While this is good practice for citizen observers/monitors, it is not good practice for international observers, as it potentially undermines their independence.
- The failure of the EMS meant POs had to manually transmit (carry) Form 45 to ROs. While the manual transmission of Form 45 is provided for in law, it is intended to accompany the process of digital results transmission.
- The law provides for the sanctioning of POs who do not transmit results by 10:00 the day after the election. It is noted that, even though the law prescribes that POs' relevant forms of result should be reported before 02:00 the day after polling, there was an inordinate delay in the collation and announcement of results owing to Forms 45 being transmitted and collated manually. This is discussed in more detail in the following section.

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[302] https://ecp.gov.pk/storage/files/2/Handbook%20for%20PrO%20and%20APO%20-%20Local%20Govt%20Election%20for%20Cantonment%20Board_Printable%20File_Final.pdf (p. 62).

- In some cases, there were not enough copies of Form 45 to give to all party agents, with agents instead relying on taking photos with their mobile phones (despite phones technically not being allowed in polling stations). The POs also had to fill in multiple Forms 45 by hand rather than benefiting from the use of carbon copy paper forms, which can produce multiple copies.

Recommendations:

- While there were high levels of acceptance of the counting process, the ECP should ensure stricter adherence to its standardised counting process in line with international good practice.
- The ECP should consider amending Form 45 to include a space or column for party agents who are unsatisfied with the accuracy of results, and who do not wish to sign the Form, to be able to state the reason why they are not signing.
- The ECP should consider clarifying rules relating to the signing of Form 45 by observers, such that the provision applies only to citizen observers/monitors and not to international observers.

Digital results transmission and results management

Section 13 (2) of the Elections Act mandates POs to digitally transmit, where possible, a scanned copy of the results forms (Form 45) to the RO, who is thereafter required to transmit tallied results digitally to the ECP (Section 13 (3–4)). POs and ROs are also required to send original copies of all forms.

For the 2018 election, the ECP, with assistance of NADRA, developed the Android-based Results Transmission System (RTS), an app downloaded on PO mobile phones that allowed them to capture the physical results form and transmit the scanned copy digitally to the RO.[303] This was used alongside an offline application called the Results Management System (RMS), developed with assistance from UNDP, used by ROs to manually enter results from Forms 45 before producing a digital Form 47.[304] In that election, while the RMS worked well, the RTS experienced significant challenges on election day and ultimately failed.

In the 2024 election, the ECP developed the EMS, which appeared to combine the functions of both the RTS and the RMS. According to Dawn, the new system cost a total of R280 million (US$1 million).[305] Crucially, the EMS was designed to operate over a private secure network not connected to the Internet: 'It runs efficiently over private network to compile results online, but in case of absence of connectivity, the EMS can also automatically operate in offline mode.'

Despite concerns that the EMS had not been tested in by-elections or large-scale pilot projects, the ECP sought to assure stakeholders it had tested the EMS in multiple mock exercises at the provincial, divisional and district levels and found it to be secure and reliable.[306] The ECP also stated it had sufficiently trained staff in the use of the new system. The ECP also confirmed it had allocated four trained data entry operators, each with their own laptop, to every RO, rather than the one data entry operator allocated to each RO in 2018. This represented a total of 3,600 data operators nationally.[307] According to the ECP's 2018–2023 Strategic Plan, the ECP also attained ISO-27001 on information security management in May 2021.[308]

On election day 2024, the EMS ultimately failed. POs were unable to transmit Forms 45 over the system and had to rely on manual transmission of results. The Group was unable to ascertain the precise reasons for the failure. While the Group notes that cellular network services were shut down on election day, its understanding is that the ECP's use of a private network should have ensured that this shutdown did not affect the phones of POs. The causative link between the cellular shutdown and the failure of the EMS was confirmed in an ECP press release on 12 February.[309]

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[303] www.undp.org/pakistan/publications/undp-pakistan-annual-report-2018

[304] https://ecp.gov.pk/storage/files/2/RMS_RTS%20English%20Brochure%20Seperate%20Pages.pdf

[305] www.dawn.com/news/1808994

[306] Ibid.

[307] Ibid.

[308] https://ecp.gov.pk/storage/files/1/dow3.pdf (p. 30).

[309] https://ecp.gov.pk/storage/uploads/1Kbhli9OAjqn3vOkInxjr3wKOSIfpuI8i8ZqBmoX.pdf

The impact of the failure of the EMS cannot be overstated. In the first instance, the failure of the system meant the results transmission process did not adhere to Section 13 of the Elections Act. It resulted in lengthy delays while POs travelled to RO collation centres with physical forms, and additional delays as the assigned data entry operators inputted results into the backup Excel spreadsheets as opposed to the EMS. The overall effect of the failure of EMS was to significantly decrease transparency in the process, and likely contributed to instances of irregularities between Forms 45 and the tallied results on Forms 47.

Given that the failure of the EMS has echoes of the failure of the RTS in 2018, it appears there is a need for a more rigorous lessons learned review in the post-election period. As far as the pre-election period is concerned, the Group regards as essential the need for a more rigorous and transparent testing regime - one that ideally includes political party representatives, CSOs and academia.[310] Additionally, political parties should be fully briefed on how the electoral technologies work in order to increase trust in the system and limit the scope for mis- and disinformation to fill the information void in the post-election period.

The Group appreciates the considerable efforts taken by the ECP to reduce delays in remote areas and areas with inclement weather, including via the use of helicopters to transport results forms and sensitive materials. Delays were harder to explain in cities like Karachi and Lahore, where population density meant shorter distances between polling stations and RO offices, and where transportation was not affected by adverse weather conditions. In addition, the Group agrees with PILDAT's assertion that, with a shutdown of cellular services being widely anticipated by some stakeholders, there may have been more the ECP could have done to plan for the manual transmission and tabulation of results in order to lessen delays in urban areas.[311]

Recommendations:

- In order to identify and rectify any faults or weaknesses with electoral technologies, the ECP should undertake a larger testing regime that subjects the system to stresses comparable with those on election day. This testing regime should be as transparent as possible, up to and including allowing academics and CSOs to participate in the testing.
- The ECP should undertake a thorough post-election lessons-learned review to identify the reason for the failures with the EMS, and to rectify these issues for future elections.
- In order to reduce delays in the transmission and tabulation of results, the ECP should strengthen risk mitigation strategies in the event of a possible failure of electronic results transmission and tabulation technologies.

Irregularities in the tabulation process

The Group reviewed a wide array of documentation from various sources regarding allegations of manipulated results during the tabulation process, including petitions, media analysis and analysis by CSOs. These allegations, for the most part, centre on discrepancies between polling station results as captured on Forms 45 (copies of which were held by party agents) and the tabulated constituency results captured on Forms 47 that were thereafter announced by the ECP.

The Group understands there were around 333 National Assembly and Provincial Assembly post-election petitions in total, with 188 of these being filed by PTI-endorsed independent candidates.[312]

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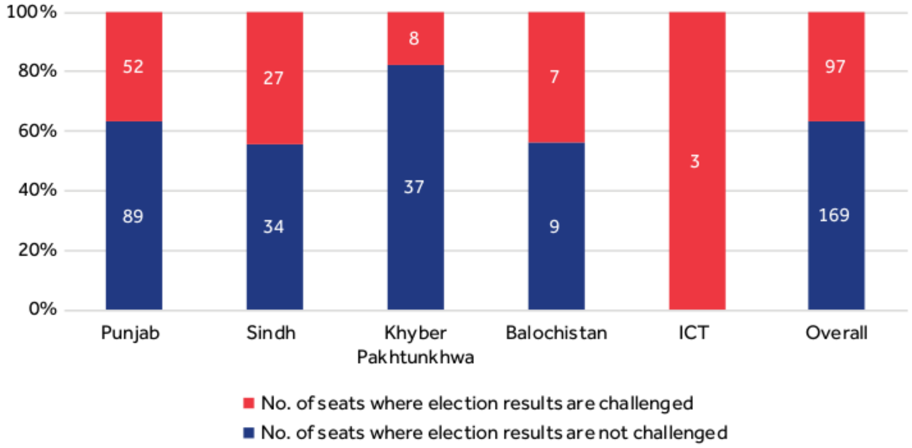
[310] The EU's Network and Information Security Cooperation Group recommends that election management bodies' cybersecurity strategies include, among other things, systems security testing by an independent review team; penetration testing by 'red team' testers; the public testing of systems by a wide range of experts; and exercises – both technical and non-technical – that simulate various scenarios that could occur on election day (pp. 27-31). The IFES Holistic Exposure and Adaption Testing process and the Commonwealth Secretariat's Cybersecurity for Elections guide (pp. 100–104) likewise recommend broad and transparent penetration testing regimes.

[311] PILDAT (2024) 'Assessment of the Quality of the General Election'.

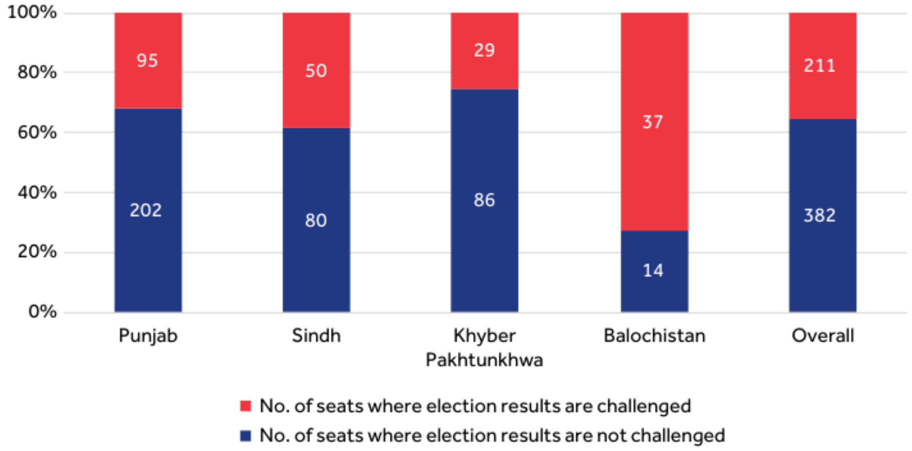
[312] https://fafen.org/wp-content/uploads/2024/08/Tribunal_Report_Second_Update_Final.pdf

Figure 6.2A Number of National assembly constituencies by region and status of election results



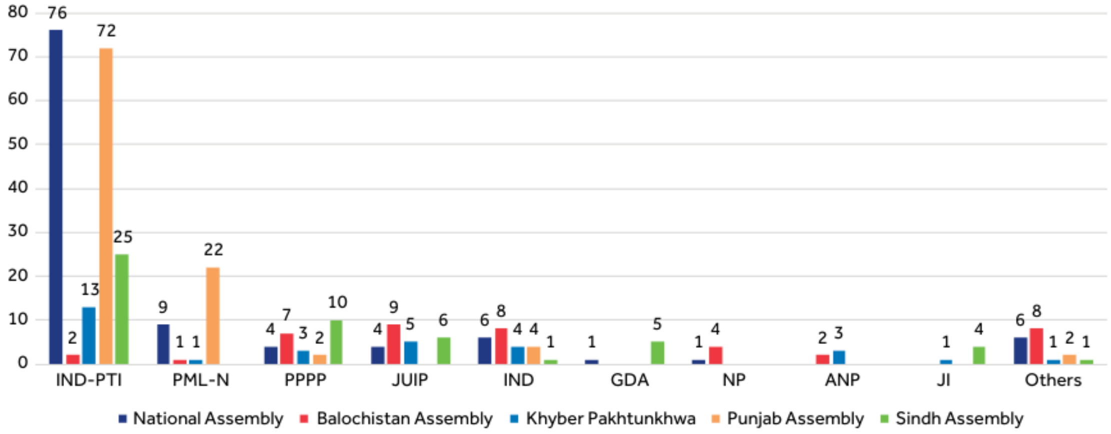
Source: FAFEN (2024)

Figure 6.2B Number of Provincial Assembly constituencies by region and status of election results



Source: FAFEN (2024)

Figure 6.3 Number of petitions, disaggregated by petitioners' political affiliation and assembly



Source: FAFEN (2024)

The Group is conscious that the vast majority of petitions have not yet been disposed of. As such, this report does not seek to provide a comprehensive list of constituencies in which there are questions around the accuracy of the results, nor does it go into significant detail regarding any particular petition, as to do so could prejudice ongoing tribunals. Instead, the Group has identified types of irregularity that are illustrative of the many allegations contained in various petitions and highlighted by analysis undertaken by CSOs.

Additionally, the Group has identified some areas of concern regarding the speed with which the ECP has provided information to the public, the accuracy of the information provided by the ECP and the speed with which election tribunals have heard and disposed of petitions. Throughout, the Group has offered some reflections on how the integrity of the tabulation process can be improved for future elections.

Irregular vote totals on Form 45

In several constituencies, the Group reviewed documentation that suggested that Form 45s may have been altered to change the total number of votes received by candidates, and that these altered forms were used to compile the tabulated results on Forms 47, resulting in some candidates being illegally returned as elected. The Group was informed that, in many cases, the Forms 45 submitted to the RO differed from the copies of Forms 45 received at the polling station by agents of independent candidates and other party agents. In addition, the Group reviewed documentation that appeared to show that a significant number of Forms 46 had been altered.

The Group notes that Hafiz Naeem ur Rehman, of the JI party, was returned winner in PS-129 in Karachi but later stated he was giving up his seat because he said the vote was rigged in his favour.[313] Despite this, the ECP notified Mr Rehman as winner; the website still lists the victor as JI.[314]

Irregular voter turnout

In several constituencies, the Group reviewed documentation that suggested that Forms 45 for some polling stations appeared to contain inordinately high voter turnout figures in National Assembly elections compared with the turnout at shared polling stations in Provincial Assembly constituencies (i.e., those that intersected with the NA constituency). A significantly higher turnout for National Assembly elections would be possible only if large numbers of voters cast their National Assembly ballot but did not cast their Provincial Assembly ballot. The Group finds this to be an unlikely scenario, as it would have required large numbers of voters to collect only one ballot paper and/or cast only one ballot paper. The Group is not aware of this occurring in numbers large enough to have substantiated these variances in turnout, nor did it receive reports of such a practice being widespread on election day.

By way of example, analysis by Pattan-Coalition 38 noted one constituency in Lahore in which 3 of the almost 70 constituency polling stations appeared to have turnout surpassing 100 per cent, while almost 90 per cent of the remaining polling stations had turnout at 80–99 per cent. Their analysis also appeared to show that, where variances existed between the National Assembly constituency and the three Provincial Assembly constituencies that intersected it, the variance was much more often than not higher for the National Assembly constituency than for the Provincial Assembly constituencies.[315]

The Group finds much of the analysis conducted by CSOs to be credible. Indeed, it is noted that, on several occasions, media outlets conducted their own analysis of CSO reports, with their conclusions substantiating the findings of CSOs.[316] Equally, as shall be shown below, the ECP's responses to some CSO reporting appeared to suggest Pattan-Coalition 38's analysis had been correct.

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[313] www.bbc.co.uk/news/world-asia-68302678; www.dawn.com/news/1825672

[314] www.elections.gov.pk/sindh-assembly

[315] Data compiled by Pattan/Coalition 38 from Forms 45 relating to a constituency in Lahore.

[316] www.geo.tv/latest/553202-fact-check-confirmed-form-45s-missing-from-ecp-website-as-reported-by-pattan; www.dawn.com/news/1844451

ECP uploading of Forms 45

According to Section 95 (10) of the Elections Act, the ECP is required to publish on its website all Forms 45, 46 and 47 within 14 days of the election. Section 98 (2) states the ECP 'must within 14 days from the date of the poll, publish the name of each contesting candidate and the total number of votes received by him/her'. The Group notes that the ECP's stated reason for delays to the results management process in the immediate post-election period was in order to prioritise accuracy over speed. This is a commendable approach. As such, the ECP's full use of this 14-day window could be seen as a prudent and necessary approach. However, by the end of the 14-day window, full sets of forms had not been uploaded and the ECP was unable to adhere to Sections 95 and 98.

In a press release issued on 3 July, Patten-Coalition 38 stated that the ECP had failed to upload Forms 45 of 20 Provincial Assembly constituencies and 1 National Assembly constituency to its website.[317] Two days later, Pattan-Coalition 38 issued a new press release averring that the ECP appeared to have uploaded missing Forms 45 to the website or 'modified or changed' existing ones.[318] Pattan-Coalition 38's 5 July press release found that the ECP had uploaded or modified 33 forms, including forms for 12 National Assembly constituencies (all in Punjab, with 3 of these in Lahore), and 21 Provincial Assembly constituencies (all in Punjab, with 13 in Lahore). The majority of winning candidates in the National Assembly seats were PTI-endorsed independents, while the majority of winning candidates in the Provincial Assembly seats were PML-N candidates.[319] The Group noted the ECP's press release of 5 July, the same day Pattan noted modifications to folders, which stated that no such modifications had taken place and that the suggestion was an example of 'misleading information'.[320] However, at least two media outlets confirmed Pattan-Coalition 38's findings.[321]

The Group cannot establish whether these clerical irregularities owed to mistakes or malevolence. Nevertheless, the fact the forms were not uploaded gives cause for concern, given that the ECP's explanation for delays in uploading forms in the weeks after the election was in order to prioritise accuracy over speed.

The analysis conducted CSOs (in particular PILDAT, FAFEN and Pattan-Coalition 38), sometimes confirmed through reporting by media outlets, underscores the valuable role played by civil society in this election. In light of the failure of the digital results transmission and results management system for the second successive general election, and in noting the dedication and diligence demonstrated by these organisations in their post-election analysis, the Group echoes its recommendation, first made in Chapter 4, that CSOs make efforts to undertake a parallel vote tabulation exercise in future elections. In the event that digital results transmission systems fail again (a high likelihood if cellular services are once again shut down), a parallel vote tabulation would add an important additional layer of accountability and transparency to the process.[322] Should there be a need for legislative or regulatory amendments to support such activities, these should be enacted.

The Group encourages the ECP to continue its development of digital results transmission and results management processes. The Group is confident that the ECP has the requisite technical expertise to develop such technologies. However, the ECP must be supported by other stakeholders to allow these technologies to work as intended. While acknowledging the concerns of the intelligence services regarding security threats, the Group notes that multiple United Nations resolutions are clear that network shutdowns are contrary to international law, while a 2019 report by the Special Rapporteur on Freedom of Peaceful Assembly and Association stated that shutdowns 'cannot be justified in any circumstances'.[323]

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[317] Press Release, Pattan-Coalition 38, 3 July 2024.

[318] Press Release, Pattan-Coalition 38, 5 July 2024.

[319] Ibid.

[320] https://ecp.gov.pk/press-releases/clarification-regarding-form-45-placed-on-website

[321] www.dawn.com/news/1844451; www.geo.tv/latest/553202-fact-check-confirmed-form-45s-missing-from-ecp-website-as-reported-by-pattan

[322] Otherwise known as Process and Results Verification for Transparency (PRVT).

[323] A/HRC/41/41. https://documents.un.org/doc/undoc/gen/g19/141/02/pdf/g1914102.pdf

Ultimately, the improvement of electoral processes will fundamentally depend on the broader political conditions in which elections are held, and on the ability of political parties, the ECP and the judiciary to be able to act free from outside pressures, and with a sense of common, national purpose.

Timeliness of election tribunal disposals

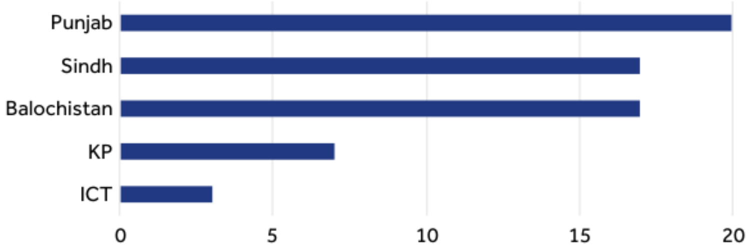
The Group notes analysis conducted by FAFEN into all post-election tribunals. As of 17 August 2024, around a month shy of the statutory 180-day timeframe for disposing of petitions,[324] FAFEN found that only 25 petitions (4 National Assembly petitions and 21 Provincial Assembly petitions) had been disposed of out of a total of around 333 filed (i.e., 7.5 per cent). With the ECP having established 23 election tribunals, this represents an average of only 1 petition disposed of per tribunal.[325]

The Group understands that 14 of the 25 petitions were disposed of by Balochistan election tribunals, while the Islamabad and Punjab tribunals, which collectively account for nearly 50 per cent of all petitions, had disposed of just 1 by 17 August.[326] In the case of Punjab, the Group notes that part of the reason for the lack of action of tribunals appears to stem from the ECP's rejection of six tribunals appointed by Lahore High Court, on the basis that such appointments should be made by the ECP 'in consultation with the Chief Justice', and were therefore in violation of Article 140 of the Elections Act.[327]

Be that as it may, the Group is nonetheless concerned that the slow pace of election tribunals in certain provinces will almost certainly result in petitions not being heard within the statutory timeframe. The Group appreciates that this is not a new phenomenon; as noted in Chapter 3, post-election petitions in previous elections have at times taken years to be disposed of. Yet, the fact that nearly 93 per cent of cases were yet to be heard nearly six months after the election raises significant questions regarding the overall functioning of the post-election petition process and the principle of access to justice. Furthermore, FAFEN notes that copies of a significant number of petitions have not been made available on cause lists, and in many cases the petitions did not appear on cause lists at all.[328]

In addition, it appears that the ECP has not appointed a proportional number of tribunals per province (including ICT), meaning that the average caseload per tribunal differs substantially between the provinces. Analysis by FAFEN shows that KP has an average of 7 petitions per tribunal, while Punjab has an average of 20 petitions per tribunal.

Figure 6.4 Average caseload of tribunals per province



Source: FAFEN (2024)

Recommendations:

- High courts should ensure that copies of all petitions are uploaded to their respective online cause lists in a timely manner.
- The ECP should provide accurate, timely and comprehensive information on the total number of petitions filed in the post-election period.

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[324] This calculation includes the 45-day time limit for filing petitions.
[325] https://fafen.org/wp-content/uploads/2024/08/Tribunal_Report_Second_Update_Final.pdf
[326] Ibid.
[327] www.dawn.com/news/1839778
[328] https://fafen.org/wp-content/uploads/2024/08/Tribunal_Report_Second_Update_Final.pdf

The impact of these delays on the composition and functioning of the legislature is significant, not least with regard to the National Assembly's votes to amend the Elections Act on two occasions in the post-election period, both of which were retroactive and one of which granted the ECP the authority to appoint retired judges to these same election tribunals.[329] As noted in Chapter 3, and to reiterate, international good practice states that electoral laws should not be amended even one year *prior* to an election;[330] the passing of retroactive legislation several months *after* an election that impacts on extant election petitions cannot be regarded as democratic.

Recommendation:

- The National Assembly should not pass retroactive legislation that impacts a recent election. Indeed, in accordance with international good practice, no laws that directly impact an election should be amended within one year prior to the election (excluding bye-elections).

Communications strategy of the ECP

In the pre-election period, the ECP used various communication strategies to inform and educate stakeholders about the electoral process, voting procedures and election-related matters. These included public awareness campaigns, voter education programmes, media engagement, stakeholder collaboration and information dissemination via press releases, notices, orders and gazettes. Public awareness campaigns used various media channels to reach a broad audience, while voter education sought to educate citizens about the electoral process and its significance. Information was disseminated through official websites, social media channels and press releases, with multiple languages available. The ECP also collaborated with government agencies, CSOs and political parties to reach a broader audience.

While acknowledging some stakeholder concerns regarding the tardiness of the ECP in releasing certain information (for example the delayed Code of Conduct), for the most part the Group regards the pre-election information strategy adopted by the ECP to be highly professional, reflecting a genuine desire to keep stakeholders abreast of key developments. For this, the ECP is to be commended.

Regarding the election day and post-election communications strategy, the ability of the ECP to convey real-time information to stakeholders was arguably hampered by the shutdown of the cellular network. In addition, the failure of EMS meant that the results tabulation process was itself significantly slowed down, with POs having to manually transmit results and RO data clerks having to manually tabulate them. The combined impact of the above was that speculation and rumour, as well as purported evidence of manipulation (some of which appeared genuine), was able to fill the information void created by the lack of official information.

While the root cause of disruptions to the EMS, and by extension the results management process, may have been the lack of connectivity, the ECP's relative silence in the four days after the election gave cause for concern. With a number of legitimate questions regarding the ongoing results process and the failure of the EMS, the ECP failed to provide timely and substantive updates on the situation. The ECP's press release on 12 February sought to provide an explanation for the delays, as well as the failure of EMS, yet such were the number of unanswered questions the Group believes a press conference, allowing the media to seek answers, would have been more appropriate.[331]

Recommendation:

- For future elections, the ECP should adopt a post-election communications strategy based on the principles of crisis communication, ensuring regular and substantive updates are issued to the media and other stakeholders.

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[329] https://na.gov.pk/uploads/documents/668cde32235b3_548.pdf

[330] www.cartercenter.org/resources/pdfs/peace/democracy/cc-OES-handbook-10172014.pdf; Article 2b, Venice Commission's Code of Good Practice in Electoral Matters. www.venice.coe.int/images/SITE%20IMAGES/Publications/Code_conduite_PREMS%20026115%20GBR.pdf

[331] https://ecp.gov.pk/storage/uploads/1Kbhli9OAjqn3vOklnxjr3wKOSlfpul8i8ZqBmoX.pdf

Results

Below are the results of the National Assembly and four Provincial Assembly general seats as shown on the ECP website.[332] Owing to the ongoing legal disputes, these results do not include reserved seats, and do not account for the 12 July Supreme Court Order that declared PTI a parliamentary party.

A majority of 169 seats (including reserved seats) is required to form a government. Following the election,

PML-N formed a coalition with the PPP, a number of smaller parties and independent candidates.

Table 6.1 Results of the National Assembly

Party	Party full name	Seats*
IND	Independent**	101
PML-N	Pakistan Muslim League (N)	75
PPP	Pakistan People's Party	54
MQM	Muttahida Qomi Movement Pakistan	17
JUI (P)	Jamait Ulama-e-Islam Pakistan	4
PML	Pakistan Muslim League	3
IPP	Istakham-e-Pakistan Party	3
BNP	Balochistan National Party	2
MWMP	Majlis Wahdat-e-Muslimeen Pakistan	1
PML (Z)	Pakistan Muslim League (Zia-ul-Haq Shaheed)	1
PNAPP	Pashtoonkhwa National Awami Party Pakistan	1
BAP	Balochistan Awami Party	1
NP	National Party	1
PMAP	Pashtoonkhwa Milli Awami Party	1

* One seat was not contested owing to the death of a candidate.
** PTI-endorsed independents won 92 of the 101 independent seats.

Table 6.2 Results of the Punjab Provincial Assembly

Party	Party full name	Seats*
IND	Independent	138
PML-N	Pakistan Muslim League (N)	137
PPP	Pakistan People's Party	10
PML	Pakistan Muslim League	8
IPP	Istakham-e-Pakistan Party	1
PML (Z)	Pakistan Muslim League (Zia-ul-Haq Shaheed)	1
TLP	Tehreek Labbaik Pakistan	1

* One seat was not contested owing to the death of a candidate.

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[332] www.elections.gov.pk/national-assembly

Table 6.3 Results of the Sindh Provincial Assembly

Party	Party full name	Seats
PPP	Pakistan People's Party	84
MQM	Muttahida Qomi Movement Pakistan	28
IND	Independent	14
GDA	Grand Democratic Alliance	2
JI	Jamaat-e-Islami Pakistan	2

Table 6.4: Results of the Khyber Pakhtunkhwa Provincial Assembly

Party	Party full name	Seats*
IND	Independent	91
JUI (P)	Jamait Ulama-e-Islam Pakistan	7
PML (N)	Pakistan Muslim League (N)	5
PPPP	Pakistan People's Party Parliamentarians	4
JI	Jamaat-e-Islami Pakistan	3
PTIP	Pakistan Tehreek-e-Insaf Parliamentarian	2
ANP	Awami National Party	1

* Two seats were not contested due to the deaths of two candidates.

Table 6.5 Results of the Balochistan Provincial assembly

Party	Party full name	Seats
PPP	Pakistan People's Party	11
PML-N	Pakistan Muslim League (N)	10
JUI (P)	Jamait Ulama-e-Islam Pakistan	10
IND	Independent	6
BAP	Balochistan Awami Party	5
NP	National Party	3
ANP	Awami National Party	2
BNP	Balochistan National Party	1
BNP (A)	Balochistan National Party (Awami)	1
HDTB	Haw Do Tehreek Balochistan	1
JI	Jamaat-e-Islami Pakistan	1

Annex I. Composition and Biographies of the Group

Chair of the Commonwealth Observer Group

H.E. Dr Goodluck Ebele Jonathan, Former President of the Republic of Nigeria

His Excellency Dr Goodluck Ebele Jonathan, President of the Federal Republic of Nigeria from 2010 to 2015, was born in Otuoke, Bayelsa State on 20 November 1957.

He holds bachelor's, master's and doctorate degrees in zoology, hydrobiology and fisheries biology respectively; all obtained from the University of Port Harcourt, Rivers State, Nigeria.

President Jonathan's active political career began in 1998 when he was first elected Deputy Governor of Bayelsa State. He served in that capacity from 1999 to 2005, and later became the Acting Governor. In 2005, he was elected the substantive Governor of Bayelsa State, a position he occupied for two years before he was elected Vice President of the Federal Republic of Nigeria in 2007.

In January 2010, he became Acting President, and following the death of President Umaru Musa Yar'Adua in May 2010, he was sworn in as President of the Federal Republic of Nigeria. In 2011, he contested and was elected as Nigeria's President.

In total commitment to his avowed position that "[his] ambition is not worth the blood of any Nigerian", Dr Jonathan conducted his re-election campaigns peacefully. As a southern Christian, he stood election against a northern Muslim, which divided the nation along religious and regional lines, causing tension in the country.

Upon receiving reports that the results may not go in his favor, despite votes still being counted, he called his challenger and congratulated him. This act, uncommon in Africa, averted the bloodshed that would have happened to many nationals. He peacefully handed over to another administration in May 2015.

As President of the Federal Republic of Nigeria, Dr Jonathan made major contributions to the political, economic and social development of Nigeria through his Transformation Agenda. He vigorously pursued his commitment to change the global negative perceptions of the Nigerian elections by reforming the electoral process to establish a culture of non-violent, free, fair, and credible elections. He further promoted democratization through the observance of the rule of law, enactment of the Freedom of Information Act, electoral reforms and non-interference in electoral outcomes.

As President, he worked as Chair of the Authority of ECOWAS Heads of State and Government to resolve the political crisis and stabilise democracies in the sub-region and Africa, especially in countries like Cote d'Ivoire, Niger, Guinea Bissau, Mali, Liberia, Sierra Leone, Benin Republic, Burkina Faso and Togo. Owing to his commitment and passion towards bringing peace and stability to Africa, Nigeria was nominated twice within his five-year tenure, to the United Nations Security Council - a feat very rarely achieved by non-permanent members of the UN Security Council.

Since leaving office in 2015, Dr Goodluck Jonathan has remained committed to promoting democracy, credible elections, peace building, and respect for the rule of law in Africa. He is the Chairman of the Goodluck Jonathan Foundation, an organisation he founded to promote best practices in democracy, peace building, and prosperity in Africa.

He is the also the Convener of the West African Elders Forum, a peacebuilding and mediation platform comprising former Presidents and statesmen from West Africa to address election-related violence and other socio-political crises in the sub-region. So far, the Forum, under Jonathan's leadership, has conducted successful mediation missions to The Gambia, Nigeria, Sierra Leone, Liberia and Senegal where elections were held in the last two years.

He has led different International Election Observation Missions to various nations including Tanzania (Commonwealth Mission in 2015), Zambia (African Union (AU) Mission in 2016), Liberia (National Democratic Institute (NDI) Mission in 2017), Sierra Leone (Electoral Institute for Sustainable Democracy in Africa, (EISA) Mission in 2018), South Africa (EISA Mission in 2019), Mozambique AU Mission in 2019), Tanzania (AU Mission in 2020), The Gambia (WAEF Mission in 2021), Kenya (EISA Mission in 2022) Sierra Leone (WAEF Mission in 2023), Cambodia (ISCP Mission in 2023), Zimbabwe (AU Mission in 2023), Pakistan (Commonwealth in 2024), Botswana (AU Mission, 2024) and Ghana WAEF, 2024).

Observers

Linet Muthoni (Australia)

Dr Linet Muthoni is the criminology, social and psychological science program lead at Griffith College, Australia. She holds a bachelor's and master's degrees in law, and a doctorate in criminology. Her research focuses on contextual and group dynamics of violent extremist organisations.

Dr Muthoni has undertaken policy formulation projects on access to justice, the protection of human rights in counter-terrorism responses and on counter-violent extremism for the Judiciary of Kenya, the National Counter-Terrorism Centre and the Department of Homeland Security. She has extensive experience lecturing and training on alternative dispute resolution, international and counter-terrorism law. She has lectured and conducted training for various institutions including Griffith University, the Judiciary of Kenya and the Department of Foreign Affairs and Trade.

Barbara Malimali (Fiji)

Barbara Malimali is a senior member of the Bar in Fiji and was the appointed the first female Chairperson of the Electoral Commission of Fiji.

Ms. Malimali is a criminal lawyer with special interest in Child Protection. Ms. Malimali was one of the founders of the Fiji Women Lawyers Association (FWLA) and the special interest group known as the Fiji Indigenous Bar Association (FIBA).

Nazima Raghubir (Guyana)

Nazima Raghubir is a print and broadcast journalist based in Guyana. She has been in the media all her working life as a writer, reporter, managing editor and news presenter, with stints at Prime News, as editor of "Insight" public affairs journal, and as a stringer/correspondent and fixer for several regional and international news organisations.

In 2018, she became the first woman to head the now 81-year-old Guyana Press Association, and in 2020 she was elected to head the Association of Caribbean Media Workers (ACM), which represents national media associations across the Caribbean. Ms Raghubir remains Vice President of ACM, a position was elected to in 2023. Additionally, she was re-elected President of the Guyana Press Association in 2023. Ms Raghubir he sits on the Board of the Media Institute of the Caribbean and the University of Guyana Broadcasting Trust.

Ms Raghubir has also authored and edited several print and multimedia productions, including a published guide to the Parliament of Guyana, documentaries covering development and human rights issues, and numerous conference presentations. Among these are the State of the Caribbean Media Report, and a Situation Report on Misinformation and Disinformation, which was produced by the Public Media Alliance with support from UNESCO.

Ahmed Issack Hassan (Kenya)

Ahmed Hassan is an Advocate of the High Court of Kenya and former Chairperson of Independent Electoral & Boundaries Commission. Mr Hassan has significant election observation experience, having been a member of the Commonwealth Observer Group missions to Nigeria, Guyana and Solomon Islands. He has served as an international election consultant for United Nations Election Support Projects in Somalia and Afghanistan, and is the author of a book on elections titled 'Referee of a Dirty Ugly Game: In the Theatre of Kenya's Elections - An Insider's Account.'

Anahila Kanongata'a (New Zealand)

Anahila Kanongata'a is an indigenous Tongan woman who lives in Aotearoa New Zealand. She was elected Member of Parliament in the New Zealand House of Representatives from 2017 to 2023. She served on the Health, Environment, Justice Select Committees and was Deputy Chair of the Social Services and Community Select Committees. She chaired the Steering Committee of the Commonwealth Women Parliamentarians Pacific Region. Her work contributed to an amendment of the Commonwealth Parliament Association's constitution, requiring that 30 per cent of conference delegates in the Association be women.

Ms Kanongata'a is the Founder and Director of Anahila Kanongata'a Consultancy Ltd, specialising in strategy, representation, project management, leadership and community development. This co-developed an indigenous Tongan framework, Tokonaki 'a e Kainga, a strategy for navigating leaders to add value in their organisations. A passionate advocate, co-ordinator, collaborator and initiator of lasting change, Ms Kanongata'a's influence mobilised the Tonga diaspora in New Zealand by setting up the Aotearoa Tongan Response Group Inc., which responded to the 2022 Hunga Tonga-Hunga Ha'apai volcano eruption and tsunami, providing multi-million dollar essential support for recovery and leading a strategy ready to respond to future events.

Ms Kanongata'a is fluent in Tongan (native) and English but is also a student of Te Reo Maori (Maori language and culture).

Belinda Kora (Papua New Guinea)

Belinda Kora is a journalist based in Port Moresby, Papua New Guinea, and works with the Australia Broadcasting Corporation's Asia Pacific Newsroom. She reports daily for ABC Radio Australia's Wantok and Pacific Beat programs. Belinda has worked for the ABC since 2018 and is one of PNG's most experienced journalists.

Sarah Flood-Beaubrun (Saint Lucia)

Sarah Flood-Beaubrun qualified as a Barrister-at-Law in 1995. She was called to the Bar of England and Wales and to the Bar of the Organisation of East Caribbean States Supreme Court in 1995. She is a Member of the Honourable Society of Lincoln's Inn.

She has held the positions of elected Member for Castries Central (1997-2004); Minister for Health and Human Services (1997–2001); Minister for Home Affairs and Gender Relations (2001–2004); Speaker of the House of Assembly (2006–2008); Deputy Permanent Representative of Saint Lucia to the United Nations (2008–2011); and Minister for External Affairs (2016–2021).

Umaru Fofana (Sierra Leone)

Umaru Fofana has been a journalist since 1996, working extensively across Africa, Asia and the United States. He currently works as a freelance journalist, and has written for the BBC, NPR, Reuters, and local media houses in Sierra Leone. Mr Fofana has been CEO of FreeMedia Group since 2009.

Mohamed Mahdoom Mohamed (Sri Lanka)

Mohamed Mahdoom Mohamed (commonly known as M.M. Mohamed) completed his first degree in Arts at the University of Peradeniya in 1983. In 1991, he joined the Sri Lanka Administrative Service, and served in various roles within the Election Department and the Election Commission of Sri Lanka until his retirement in 2019. He was Assistant Commissioner of Elections from 1991 to 2007 in Moneragala, Badulla and Gampaha districts. Promoted to Deputy Commissioner of Elections in 2007, he worked in Gampaha and Colombo, and in 2014 became Additional Commissioner of Elections (Legal and Investigations).

During this time, he also completed an MA in Public Administration at the Sri Lanka Institute of Development Administration. In 2018, he was appointed Commissioner General of Elections, the highest position within the Election Commission of Sri Lanka, serving until his retirement in March 2019.

After retirement, Mr Mohamed was appointed as a member of the Election Commission from 2020 to 2023. He has represented Sri Lanka at various international election workshops and conferences and served as an election observer in numerous countries, including India, Indonesia and Bangladesh. Currently, he provides expertise on election law for observation organisations and civil society groups in both Sinhala and Tamil.

Mohamed Othman (Tanzania)

Mohamed Chande Othman served as Chief Justice of Tanzania in December 2010 to January 2017. Prior to that he was a Justice of the Court of Appeal, Tanzania's apex court, and the High Court. In 2023, he served as Chair of the Presidential Commission on the Reform of the Criminal Justice Institutions in Tanzania.

Since 2017, Mr Othman has been repeatedly appointed Eminent Person by the United Nations Secretary-General and was charged with the investigation relating to the tragic death on 17-18 September 1961 of the second United Nations Secretary-General, Dag Hammarskjöld and members of his party. In 2023, under a United Nations Human Rights Council mandate, Justice Othman was appointed Chair of the Independent International Fact-Finding Mission for Sudan. In 2022, under the auspices of the African Judges and Jurists Forum, a pan-African rule of law organisation, he led a team of eminent jurists to observe the hearing by the Supreme Court of Kenya of the 2022 presidential election petition.

Mr Othman's previous experience includes Prosecutor General of Timor-Leste (2000-2001); Chief of Prosecutions, United Nations International Criminal Tribunal for Rwanda (1998-2000); and Senior Legal and Justice Sector Adviser for the United Nations Development Programme (Cambodia).

Brian Speers (United Kingdom)

At the Commonwealth Law Conference in Livingstone, Zambia, in 2019, Brian Speers was elected President of the Commonwealth Lawyers Association (CLA). He served for four years until March 2023. He has represented the CLA at numerous meetings and webinars, including at two Commonwealth Law Ministers Meetings (Colombo 2019 and Mauritius 2022) and at the Commonwealth Heads of Government Meeting in Kigali in June 2022. He has spoken extensively on access to justice, freedom of expression, the Latimer House Principles and other rule of law issues affecting many Commonwealth jurisdictions.

Mr Speers practices as a Solicitor in Belfast, Northern Ireland, where he is managing partner of CMG Cunningham Dickey Solicitors. In 2010–2011, he served as President of the Law Society of Northern Ireland. He is now Treasurer of the Law Society of Northern Ireland.

He is one of the most experienced legal mediators in Northern Ireland. He is Chair of the Law Society Mediation Service administered by the Law Society of Northern Ireland. He has written extensively on mediation and conflict resolution and has mediated many disputes in the UK and Ireland and regularly contributes on mediation matters internationally.

In March 2021, Mr Speers was appointed Chair of the Commonwealth Games Ethics Commission.

Jacob Goma (Zambia)

Jacob Goma is a Social Worker who underwent military training after school. He studied Diplomacy and Public Relations at the Zambian Institute for Diplomacy and International Studies. He is the immediate past National Secretary of the Foundation for Democratic Process, a Zambian NGO involved in electoral advocacy and election observation. He served for 10 years as Member of the National Voters Education Committee, a policy advisory committee of the Electoral Commission of Zambia, and is currently serving on the team of National Voter Education Trainers, a team of experts (master trainers), who train trainers of voter education. He worked as Professional Assistant for the National Assembly of Zambia's Parliamentary Reforms and Modernisation Pilot Project, which aimed to aimed to bring Parliament closer to the people through establishment of constituency offices for Members of Parliament.

With over 15 years of working experience in communities locally and abroad, providing electoral support, voter education/observation planning and training, Jacob has undertaken electoral assignments in Afghanistan (United Nations Development Programme), Sudan (Transitional Sovereignty Council), Mozambique (Electoral Institute for Sustainable Democracy in Africa), Zimbabwe (Southern African Development Community Lawyers Association), Lesotho (African Union), Timor-Leste (United Nations) and Malawi (African Union). These missions ranged from elections audit, voter registration observation, general election observation and UN transition administration.

Commonwealth Secretariat support staff

Linford Andrews (staff team leader)
Adviser and Head, Electoral Support Section

Dinusha Panditaratne
Adviser and Head, Asia Section

Michelle Scobie
Adviser and Head, Good Offices Section

Thilini Kahandawaarachchi
Political Officer, Asia Section

Temitope Kalejaiye
Public Relations and Engagement Officer, Governance and Peace Directorate

Andy Baines
Programme Officer, Electoral Support Section

Junaid Malik
ICT Support Specialist, ICT Section

Emily Rhoades
Planning and Monitoring Officer, Strategy, Portfolio, Partnerships and Digital Directorate

Tiffany Chan
Programme Assistant, Political Section

Annex II. Arrival Statement

The Commonwealth

ARRIVAL STATEMENT

His Excellency Dr Goodluck Ebele Jonathan, Former President of Nigeria

Chairperson of the Commonwealth Observer Group

01 February 2024, Islamabad, Pakistan

2024 is a big year for democracy. More than 60 countries, home to two billion people, will hold elections, with voters taking to the polls to have their say in how their countries are run.

Thirty-three percent of those voters will be in the Commonwealth, including the roughly 128 million Pakistanis who have the right to cast their ballots next Thursday.

Like all elections, it is an important one - important to Pakistan and the region, and important to the Commonwealth and the wider world. The outcome of this election will have a significant impact on citizens' lives, both today and in years to come. The significance cannot be understated.

It is therefore my honour and privilege to have been asked by the Commonwealth Secretary-General, The Rt Honourable Patricia Scotland KC, to lead the Commonwealth Observer Group to Pakistan's General Elections 2024, and to be here in the country for this election.

I am grateful to be joined by thirteen experts selected from across the Commonwealth. They bring together a diversity of experience, in the fields of elections, law, civil society, politics, human rights, and the media, amongst others.

This eminent Group was deployed by the Secretary-General, following an invitation from the Election Commission of Pakistan.

The Group's presence reaffirms the Commonwealth's solidarity with Pakistan and its democratic processes.

The Group is now assembled in Islamabad and will soon commence their stakeholder briefings.

Our mandate, as set out in the Commonwealth's 'Revised Guidelines' for election observation, is to observe and evaluate the pre-election environment, polling day activities and the post-election period. We will consider whether conditions exist for a credible, transparent, and inclusive election, including whether there is a level playing field for candidates; whether public media has been impartial; whether the administration of the electoral process has been transparent; and whether the rule of law has been adhered to.

Following the election, our Group will issue a report. The report will assess whether the election was conducted in accordance with the standards to which Pakistan has committed itself, including whether the election was conducted in accordance with its own laws and regulations, and the degree to which this legal framework aligns with the country's regional and international commitments. It will also consider whether the administration of the election is in keeping with international good practice.

The report will make a number of recommendations on various aspects of the electoral process. Importantly, in the post-election period, the Commonwealth Secretariat will, upon receiving formal requests from national stakeholders, seek to provide assistance on the implementation of some of these recommendations.

In accordance with the provisions of the Declaration of Principles for International Election Observation, to which the Commonwealth Secretariat is a signatory organisation, the Group has no executive role; its function is not to supervise but to observe the process as a whole and to give recommendations accordingly. In conducting our duties and undertaking our assessment, we will be neutral, impartial, objective, and independent.

Over the coming days we will be meeting numerous stakeholders, including the Election Commission of Pakistan, political parties, the police, civil society groups, citizen observer and monitor groups, and the media.

From 6 February, we will deploy our observers in small teams to each of the provinces to observe electoral preparations and meet with local stakeholders in their respective locations.

On Election Day, our Group will observe the opening, voting, closing, counting and the results management processes, we will then issue an interim statement on our preliminary findings on 10 February 2024.

The first draft of our report will be prepared in-country, with the final report submitted to the Commonwealth Secretary-General shortly thereafter. It will then be shared with relevant stakeholders and the public.

On behalf of the Commonwealth Observer Group, I urge all stakeholders to ensure the election is held in a peaceful manner, and I thank you for allowing us be a part of this process, as voters cast their ballots on Thursday.

Annex III. Deployment Plan

Team no.	Deployment location	No.	Name
1	Islamabad	1 2 3	HE Dr Goodluck Jonathan (chair) Linford Andrews (staff team leader) Temi Kalejaiye (staff)
2	Abbottabad	4 5	Linet Muthoni Junaid Malik (staff)
3	Rawalpindi Team 1	6 7	Umaru Fofana Dinusha Panditaratne (staff)
4	Rawalpindi Team 2	8 9	Mohamed M. Mohamed Tiffany Chan (staff)
5	Lahore	10 11 12	Sarah Flood-Beaubrun Mohamed Othman Barbara Malimali
6	Faisalabad	13 14	Belinda Kora Andy Baines (staff)
7	Multan	15 16	Anahila Kanongata'a Brian Speers
8	Hyderabad	17 18	Jacob Goma Emily Rhoades (staff)
9	Karachi	19 20 21	Ahmed Issack Hassan Nazima Raghubir Thilini Kahandawaarachchi (staff)

Annex IV. Interim Statement

The Commonwealth

Interim Statement of the Commonwealth Observer Group

HE Dr Goodluck Ebele Jonathan, Former President of the Republic of Nigeria

Chairperson of the Commonwealth Observer Group

10 February 2024, Islamabad, Pakistan

Introduction

I would like to express my appreciation to you all for attending this press conference, in which I will deliver the preliminary findings of the Commonwealth Observer Group (COG).

May I begin by conveying, on behalf of the Group, our appreciation for the invitation extended to observe these General Elections, and for all the arrangements that have been made to facilitate the work of the COG by the Election Commission of Pakistan (ECP) and the Government of Pakistan. Pakistan is a founding and valued member of the Commonwealth family and one of the world's largest democracies. We are aware of the importance of these elections for the people of Pakistan.

The Group undertook its work on the basis of the principles of impartiality, noninterference, and independence, as required by the Declaration of Principles for International Election Observation, and in accordance with the Revised Guidelines on Commonwealth Election Observation, which was adopted by all Commonwealth member countries in 2018. The mandate of a Commonwealth Observer Group is to consider the various factors contributing to, or affecting the credibility of, the electoral process as a whole, and determine in our own judgement whether the elections have been conducted according to the standards for democratic elections to which a member state has committed itself. This includes an analysis of the preelection environment as well as polling day procedures.

We are issuing our preliminary statement today, while aware that the electoral process is yet to be formally concluded. Our final report, setting out our full findings on the entire electoral process and our detailed recommendations, will be submitted to the Commonwealth Secretary-General before being shared with the Government of Pakistan and then made publicly available.

A group consisting of eminent individuals from across the Commonwealth was constituted by the Secretary-General, the Rt. Hon. Patricia Scotland KC. On our arrival in Pakistan, the Group received briefings from a variety of local stakeholders from 2 to 5 February 2024. We met with the ECP, the police, political parties, civil society, media representatives, Commonwealth High Commissioners, and citizen observers.

I also met the Caretaker Prime Minister, Minister of Interior, and the Chief of Army Staff of Pakistan.

Our observers were deployed to various areas on 6 February 2024, covering Islamabad, Rawalpindi, Lahore, Multan, Faisalabad, Karachi, Hyderabad and Abbottabad. While on deployment, we observed ECP preparations. In advance of election day, we visited a number of polling stations in different constituencies, and met with provincial electoral officials, representatives of political parties and civil society, the police and other stakeholders in their respective locations, to gain a broader picture of the electoral process on the ground.

Our preliminary findings will be shared in the following manner. First, we will provide our key findings on the pre-election environment. Second, we will focus on our observations on Election Day. Finally, we will share brief reflections on the postelection environment. This approach is in line with our mandate, as underscored in the arrival statement we issued on 4 February 2024.

I will now turn to the initial observations of the Commonwealth Observer Group.

Pre-election environment

Electoral Preparations

We wish to commend the ECP and its staff for the substantial amount of work and the detailed logistical preparations they made for the elections. While noting some delays involved in proceeding with these General Elections, we also acknowledge the significant challenges in organising an election involving around 128 million registered voters, a marked increase from the approximately 106 million registered voters in 2018.

We recognise the security challenges faced by the ECP. We note that, in the lead up to Election Day, there were attacks which resulted in the unfortunate loss of lives. Recalling the statement I issued on 7 February, I wish to reiterate my condemnation of these attacks. I offer my sincere condolences to the people of Pakistan, especially the families of the victims, and wish a quick recovery to those injured. I commend all polling and security officials for ensuring the safety and security of polling stations and enabling the people of Pakistan to exercise their right to vote.

We note the additional challenges posed by adverse weather conditions. We commend voters, polling officials, and others who braved the cold and even snowbound conditions in some areas on Election Day. We are cognisant of the effects of the devastating floods in 2022, when many voters lost their computerised national identity cards (CNICs). We are aware of reports that some voters could not secure new CNICs in time to cast their ballot on Election Day. We also note that some polling stations were relocated a considerable distance away from their original locations, to which some voters may not have been able to travel. We encourage the National Database and Registration Authority (NADRA), the ECP, and development agencies to continue to address such challenges.

Legal Environment and Election Administration

It is noted that the 2024 General Elections took place against the background of a substantially reformed and improved legal framework, initiated prior to the previous general elections in 2018. It is hoped that this reform process will continue to be 2 met in accordance with the Constitution of Pakistan, both in letter and spirit, and the values enshrined in the Commonwealth Charter.

Where the Group identifies areas that the legal framework could benefit from refining, we will make recommendations in our final report, in keeping with the Commonwealth's whole-of-election-cycle approach.

Participation and Inclusion

It is commendable that the national gender gap in registered voters was reduced from almost 13 percent in 2013 to 7.7 percent. We note also that 60 seats in the National Assembly are reserved for women.

Notwithstanding these gains, the Group received reports that some political parties did not meet the requirement of having at least five percent women candidates on their party lists. We note that more than 5,000 candidates stood for election to the National Assembly in these General Elections, of whom approximately only six percent were women. We note reports of some communities that sought to deter women from campaigning and voting. We also note that there remain some barriers to the full participation of minority communities in Pakistan.

Noting that Pakistan currently has the highest proportion of young people in its history, we observed and commend the active participation by youth in these elections, especially in campaigns and on social media.

The Campaign

We note the importance of a legal and administrative environment which facilitates the right of citizens to run for office and to vote for their chosen candidates. The Group received reports of incidents of intimidation and even violence against candidates, members of the media and other citizens. We also received reports of arrests and detentions, especially of supporters and members of a main political party.

We note the impact of legal decisions on the ability of some candidates to run for office in the days leading up to Election Day, including a decision which disallowed the party symbol of a main political party. Stakeholders expressed concerns about the impact of this decision, insofar as it curtailed the right of voters to exercise their franchise, particularly illiterate voters. They also conveyed concerns that members of the affected party would not be eligible for reserved seats.

We observed that candidates conducted traditional and social media campaigns. We received reports of some candidates' campaigns being disrupted, thus affecting their right of peaceful assembly and the right to participate in the electoral process.

We note there were instances where the prohibition on campaigning during the 48hour 'silence period' was violated.

Media

We received reports that state media coverage was more favourable to some candidates and parties than to others.

We note with concern certain media laws and their application, as well as of pressure faced by some members of the media in regard to their coverage of the election, including for self-censorship and in regard to their safety. We commend those members of the media who withstood such pressures.

We welcome the various fact-checking efforts by traditional media platforms and fact-checking organisations to mitigate the high incidence of disinformation, fake news and hate speech. We encourage such efforts to continue.

We note with concern the restrictions placed on internet access and in particular, the shutdown of internet and mobile phone services on election day, which curtailed freedom of speech, ease of communication as well as other political rights.

Communication with electoral stakeholders

We were informed about the implementation of codes of conduct for political parties and the media in these elections. We note calls for more stakeholder engagement in the development of these codes. We will reflect further on this in our final report and recommendations that can enhance engagement and transparency in this regard.

Election Management System (EMS)

We are encouraged by the efforts of the ECP in seeking to improve election management processes through the introduction of an Election Management System (EMS). We note, however, that the EMS could not operate as intended on Election Day. I will comment on this shortly, in our Election Day observations.

Election Day observations

Eve of Polling

During our deployment, the Group observed preparations by local election officials, including the distribution of sensitive materials and setting up of polling stations. We observed that they were generally well-prepared and we wish to commend the ECP, their staff, and temporary workforce of over one million personnel.

Polling environment

On 8 February, our observers visited polling stations to observe the opening, voting, counting and collation of results, following which they returned to Islamabad for debriefing and preparation of our preliminary report. As Chairperson, on Election Day, I also had the opportunity to visit the Election Monitoring Control Centre at the ECP and the Election Security Control Centre.

While we received reports of some incidents on Election Day, which we will consider further in our final report, voting took place in a largely peaceful environment.

Pre-poll procedures and opening of polls

We observed that pre-polling procedures were largely followed and that polling stations opened on time. Some stations experienced minor delays in opening. For the most part, they were equipped with requisite polling staff and materials.

Voter turnout

The Group observed that the rate of voter turnout increased significantly as the day progressed. The Group will comment further on this issue in its final report.

Role of polling staff and polling procedures

Polling staff were, for the most part, professional and diligent in carrying out their duties. We observed, however, that in some instances procedures were not adhered to. The processing of voters was slow in some instances.

Participation and Inclusion

We observed the significant presence of youth, including young women, as ECP officials and polling agents.

We commend the presence of dedicated polling stations for women to facilitate the participation of female voters. We observed that there were many female polling staff and polling agents, and that women police officers were also present among the security at some polling stations.

We observed many persons with disabilities (PWDs) voting on Election Day. We commend all polling staff and security personnel for being proactive in assisting and granting priority to PWDs, the elderly, pregnant and nursing mothers, although we noted that such assistance was not uniform.

We observed some polling stations with concrete ramps for PWDs, but also noted the absence of ramps and other means of access at many polling stations. We also noted a number of polling stations that were located above the ground floor. We encourage the ECP to continue their important work towards fostering the inclusion of PWDs in the electoral process, including through increased voter education on postal ballots.

Role of party agents

While party or candidates' agents were present in most polling stations observed, there were isolated cases of agents not being accommodated in some polling stations during the voting process and, in addition, they could not properly observe the count.

Security

Security was highly visible at all polling locations that the Group visited. Security officials we observed were professional and carried out their duties diligently.

Secrecy of the ballot

The layout of polling stations generally ensured that the secrecy of the ballot for voters was assured, although the Group observed that the location of CCTV cameras in some polling stations could have compromised the secrecy.

Close and Count

Polling stations generally closed on time, and those who were within the premises at the stipulated closing time of 1700 hrs were accorded the right to cast their ballot. The count at polling stations we observed was generally managed efficiently by polling staff.

Results Management

As during previous general elections, we noted the continued efforts at promoting transparency, with the display of the signed Form 45 outside each polling station after counting concluded. We note that these forms were due to be sent via the mobile phone application, but the shutdown of internet and mobile coverage compelled presiding officers to rely solely on manual transmission of the forms. We received reports that this adversely impacted the processing of results. We will reflect on this further in our final report.

Conclusion

We congratulate the people of Pakistan for their patience and determination throughout the electoral process. Notwithstanding the challenges noted, citizens turned out to exercise their right to vote on Election Day. We also commend all polling staff, political parties, candidates, their agents, and the security agencies for their respective roles during this electoral process.

While the results process is being finalised, I call on all citizens to continue to exercise patience and restraint. It is our hope that the process will be concluded effectively and that it will reflect the will of the people. I speak from experience in calling for candidates to be magnanimous in victory, and gracious in defeat. We call on all those with grievances to address disputes through prescribed election dispute resolution mechanisms.

Elections are a defining moment in every democracy, and each election offers an opportunity to take forward the positive gains made in the previous cycle. We once again commend the efforts made to build on the improved legal framework from previous elections. We encourage these efforts to continue, and reaffirm the Commonwealth's continuing commitment to being part of Pakistan's post-election journey.

I thank you.

Annex V. Recommendations Tracker

Status of 2018 COG recommendations as of 8 February 2024

The 2018 Pakistan COG Report is available here

Summary:

Total recommendations	**38**
Fully Implemented	1
Mostly Implemented	3
Partially Implemented	12
Not Implemented	11
No Data or N/A	11

No.	2018 Recommendation	Type of Recommendation	Status of Implementation	Comments
Electoral Framework & Electoral Administration				
1	Electoral laws should be consistently enforced by the ECP and all other state officials, for example on breaches of rules around campaigning, procedures in the polling station, and the role of polling agents.	Legal/Regulatory	Partially	For the most part, the ECP Secretariat enforced laws and rules equally. However, its removal of PTI's bat symbol, while legally provided for, was injurious to the level playing field. The enforcement of laws and rules by ROs, both in the candidate nomination phase and in the results management phase, were shown to be inconsistent and occasionally contrary to law. Law enforcement raids on PTI members appeared to be disproportionate. The legal cases brought against Imran Khan, heard in special courts, appeared to have a political substrate.
2	Where provision is made for subsidiary legislation in the Election Act 2017, this should be promulgated; for example, the counting process after the close of polls.	Legal/Regulatory	Partially	The Election Rules 2017 (as amended) contain provisions for the close of the count, but these lack detail. The Presiding Officer Handbook does contain procedures for counting. However, these also lack detail and are not fully aligned with international good practice.
3	There should be clarity in the Election Act 2017 and Election Rules 2017 on the participation of proscribed political parties, groups, and individuals in the electoral process.	Legal/Regulatory	Not implemented	The Elections Act has not been amended in this regard.
4	There should be a limit on a candidate's ability to stand in multiple constituencies to avoid uncertainty of results.	Legal/Regulatory	Not implemented	This provision has not been amended.
5	The ECP and NADRA should increase efforts to register citizens in rural areas, for example by using more mobile registration vehicles.	Administrative/Technical	Mostly	The ECP and NADRA's joint efforts resulted in the expansion of the voter register by around 22 million. However, registration figures were lowest in KP and Balochistan, suggesting there is still more that could be done to target rural areas.

(*Continued*)

No.	2018 Recommendation	Type of Recommendation	Status of Implementation	Comments
6	The ECP and NADRA make the electorate more aware of their right to transfer their registration to a polling station in the constituency where they reside.	Administrative/Technical	No Data or N/A	The Group is unaware whether additional efforts were made in this regard.
7	The ECP makes the process of transferring registration more voter friendly.	Administrative/Technical	No Data or N/A	The Group did not receive information on the ease of transferring registration.
8	NADRA completes the CNIC registration and renewal process in good time before an election.	Administrative/Technical	Fully	Stakeholders did not convey any significant concerns regarding NADRA's provision of CNICs.
9	The ECP should promote consistent, timely and relevant civic and voter education to all, especially minority and marginalised groups.	Policy	Mostly	The ECP did develop targeted voter education materials, in particular for women and youth. However, the ECP could do more to target other minority or marginalised groups, including PWDs.
10	The Ahmadi community should be incorporated into the general list of voters.	Legal/Regulatory	Not implemented	The Ahmadiyya community is still registered on a separate register.
11	Courts must dispose of all serious cases which may open persons to disqualification from elections in a manner which does not leave the judiciary open to allegations of partisanship.	Legal/Regulatory	Partially	The Supreme Court's judgement regarding the lifetime ban appeared to have a sound legal basis but the context in which the decision was made resulted in allegations of partisanship. For the most part, the Supreme Court and high courts disposed of many candidate nomination and pre-election disputes with even-handedness, with the exception of the apex court's decision regarding the bat symbol.
12	The ECP must have regard to the National Counter Terrorism Authority Pakistan proscribed lists when accepting nominations.	Policy	No Data or N/A	The Group did not hear reports of issues relating to proscribed individuals in the context of candidate nominations.

(*Continued*)

No.	2018 Recommendation	Type of Recommendation	Status of Implementation	Comments
13	Complaints, appeals and election petitions should be expeditiously disposed of in accordance with electoral laws.	Legal/Regulatory	Partially	◤ While pre-election petitions were disposed of in a timely fashion, post-election tribunals proceeded at a much slower pace.
		Participation & Inclusion		
14	Political parties should implement additional measures to enhance the participation of minorities within the decision-making bodies of their parties and to increase the number of minority candidates nominated for local, provincial and national elections.	Policy	Not Implemented	◤ The Group did not find any significant evidence that the largest political parties had made efforts to include minorities within party executive committees.
15	The ECP, political parties and civil society promote youth participation in the various stages of the electoral process.	Policy	Partially	◤ The ECP made concerted and laudable efforts to promote youth participation through targeted voter education. Youth turnout increased, as did women's voter registration. Youth were also involved as election officials. Some political parties made greater efforts than others to promote youth, and some demonstrated more of a commitment to youth-focused policies. However, youth leadership in the executives of the largest parties was still lacking.
16	The ECP identifies cultural practices and clan-based systems (such as the *bradri* system) which discourage the free choice of voters, and target them in the same way as it has done for women who were earlier deprived under agreements between political parties and tribal elders.	Policy	No Data or N/A	◤ The Group did not receive any information regarding ECP efforts in this regard. It is worth noting, however, that a Gallup poll showed a decrease in the number of youth voters who voted in line with the Biradari.

(*Continued*)

No.	2018 Recommendation	Type of Recommendation	Status of Implementation	Comments
17	The ECP, political parties, civil society and state institutions enhance women's participation at senior levels of governance, and in operations and voter education activities throughout the electoral cycle.	Policy	Partially	The ECP expanded its Gender and Social Inclusion Wing, which performed excellently, including in relation to targeted voter education. Many polling staff were women. However, women are still lacking from the most senior levels of leadership within the ECP. The lack of female leadership at the top of the organisation stems in large part from the paucity of female judges. As noted above, the Group did not detect any significant effort to include more women in senior decision-making positions within political parties.
18	The ECP continue to educate, encourage and safeguard women's franchise, and to clarify the law so that it is empowered to take action when women's right to vote is violated.	Policy	No Data or N/A	The Group is not aware whether the ECP made specific efforts in this regard. The Group noted the promulgation of a religious edict seeking to dissuade women voters, but it is not clear what action was taken. There were no constituencies in which the turnout of women was lower than 10 per cent, although the Group regards this floor as too low to begin with.
19	The government substantially increases the 5 per cent quota of women candidates for political parties.	Legal/Regulatory	Not Implemented	The 5 per cent quota was not increased.
20	The ECP strictly enforces the quota levels for women candidates fielded by political parties.	Legal/Regulatory	Not Implemented	Analysis by the Aurat Foundation found a number of parties did not fulfil this quota. The ECP did not appear to take action in this regard.
21	Political parties should implement additional measures to enhance the participation of women within the decision-making bodies of their parties, and to increase the number of women candidates nominated and supported.	Policy	Not Implemented	The Group was not aware of political parties making any significant efforts in this regard.

(*Continued*)

No.	2018 Recommendation	Type of Recommendation	Status of Implementation	Comments
		Electoral Campaign & Media		
22	The ECP strengthens its campaign finance framework in accordance with Article 7.3 of the UN Convention Against Corruption.	Legal/Regulatory Policy	Partially	The ECP made efforts to enhance the capacity of its political finance wing but there remain challenges in terms of disclosure and enforcement.
23	The ECP should consider instituting spending limits on political parties; clarify and set clearly defined actions against those who do not follow the laws and regulations governing political finance; and strengthen the capacity of the ECP to enable rigorous monitoring and enforcement framework.	Legal/Regulatory	Partially	The ECP did make efforts to strengthen its political finance wing but did not introduce a spending limit.
24	The ECP should monitor, in coordination with the relevant authorities, to prevent the blocking of cell phone and internet networks used for campaigning.	Legal/Regulatory Policy	Not Implemented	Cellular networks were shut down for the election and the days either side, although this was not undertaken by the ECP, nor does it appear that the ECP has any authority to prevent such shutdowns.
25	Parliament review existing legislation to promote open dialogue and the free flow of information, including through a free and responsible media, and to enhance democratic traditions and strengthen democratic processes.	Legal/Regulatory	Not Implemented	The government passed the Protection of Journalists and Media Professionals Act, but this law places demands on media professionals as a precondition for protection. In any case, journalists have continued to face attacks, and impunity for perpetrators has endured. Where laws have been amended (PEMRA, PECA), these provisions have lessened rather than increased freedom of expression.

(Continued)

No.	2018 Recommendation	Type of Recommendation	Status of Implementation	Comments
26	Proper investigations into claims of harassment, intimidation and abuse of journalists, as well as better access to justice are afforded for journalists who are affected.	Legal/Regulatory Policy	Not Implemented	Impunity for attacks against journalists continued.
27	Oversight of the media should be left to independent regulators, who should operate according to clear and transparent guidelines and work with the ECP to implement the media code of conduct during the election period.	Legal/Regulatory	Partially	There are concerns regarding the real-world independence of statutory regulators. Non-independent federal agencies also play a role in media regulation through the enforcement of provisions in PECA. The ECP did develop a media code of conduct for the election.
28	Cooperation between the ECP and local media bodies is enhanced to encourage civic and voter education in the lead up to elections	Policy	Partially	More could be done to enhance co-operation between the ECP and the media on voter education.
29	Capacity-building and training on balanced election reporting and political journalism, is provided for media, especially for new recruits.	Administrative/Technical	No Data or N/A	The Group did not receive any information regarding specific capacity-building and training efforts undertaken by the media.
30	All media houses, both public and private, allocate content space to the ECP and elections-related civil society organisations on voter education.	Policy	No Data or N/A	The Group did not receive information regarding the specific allocation of space for CSOs on voter education.
		Voting, Counting & Results		
31	The ECP must ensure all polling stations are fully accessible to persons with disabilities.	Administrative/Technical	Not Implemented	A number of polling stations were not easily accessible to PWDs or the elderly.

(Continued)

No.	2018 Recommendation	Type of Recommendation	Status of Implementation	Comments
32	The ECP should work with local authorities to improve facilities for voters and polling staff, for example access to clean drinking water and hygienic toilets, particularly in rural areas.	Administrative/Technical	No Data or N/A	The Group did not receive information on co-operation between the ECP and local authorities on this point.
33	Political parties, in collaboration with the ECP, should provide more training for polling agents.	Administrative/Technical	Partially	Some party agents did not appear well trained, particularly regarding opening and closing procedures. Their work was also impacted by a lack of space within polling stations, meaning many were positioned outside the polling station room.
34	Training should be provided to ensure that polling officials are confident with any technology used in the electoral process.	Administrative/Technical	No Data or N/A	The Group was unable to observe the quality of training given to polling officials in this regard, given the failure of electoral technologies on election day.
35	While the positive role of the army in supporting the ECP in this election in terms of security is noted, its role and function must be better clarified in the future. This is to ensure that there is a clear demarcation of roles.	Policy	Mostly	The ECP issued clear instructions to security personnel, including which personnel were first, second or third tier responders. However, there were occasions when the armed forces dealt with situations that could and should have been handled by the police.
36	Procedures for counting the ballot papers are improved in order to uphold transparency of the process in accordance with international best practice. For example, each ballot paper should be displayed during the sorting so polling/candidate agents and observers can see it.	Administrative/Technical	Partially	Procedures for counting votes did not adhere with international good practice. However, the Group noted that polling staff and party agents worked well together, and party agents were generally happy with the transparency of the counting process.

(*Continued*)

No.	2018 Recommendation	Type of Recommendation	Status of Implementation	Comments
37	The documentation used for reconciliation of ballots is made simpler.	Administrative/Technical	No Data or N/A	The Group is unclear whether Form 46 was simplified.
38	The ECP should ensure its post-election review continues to be a multi-sectoral process that is participatory, consultative and shared publicly.	Policy	No Data or N/A	The Group did not observe the post-election review process.

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